

# ***APPENDIX D***

# ***PROSPECTUS***



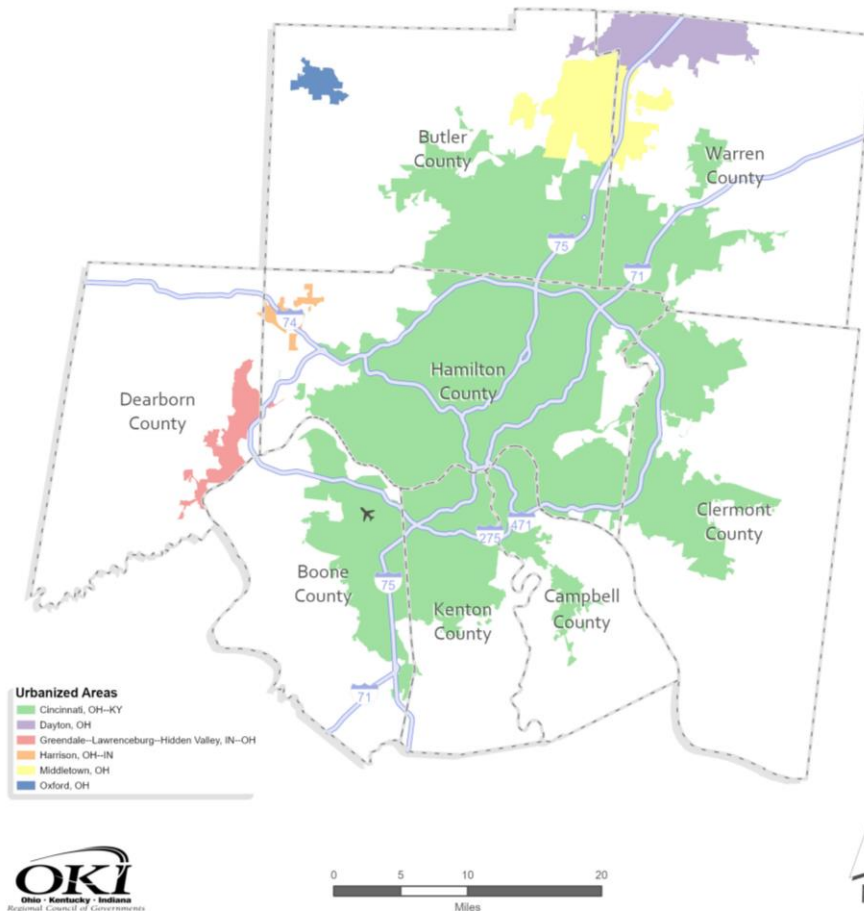
## MISSION

The Ohio-Kentucky-Indiana Regional Council of Governments (OKI) is a council of local governments, business organizations and community groups committed to developing collaborative strategies, plans and programs which will improve the quality of life and the economic development potential of the Tri-state.

## PLANNING AREA

The OKI region embraces an area of 2,636 square miles, with a population of 2,120,721 (2020 Census) in Butler, Clermont, Hamilton and Warren counties in the State of Ohio; Boone, Campbell and Kenton counties in the Commonwealth of Kentucky; and Dearborn County in the State of Indiana.

## OKI PLANNING AREA



## **ORGANIZATIONAL STRUCTURE**

OKI is governed by a Board of Directors and an Executive Committee. The Board of Directors is empowered to control all activities of the Council of Governments. The Executive Committee has all the powers necessary to act in the name of the directors. The Board of Directors elects a President, First Vice-President, Second Vice-President and Treasurer. The OKI Executive Director serves as Secretary. The term of office for the members of the Board of Directors, Executive Committee and elected officers is one year or until successors have been selected and qualified. The President serves as the Chairperson of the Executive Committee.

### The Board of Directors consists of:

- One official elected by the governing body of each member county;
- One elected official from each municipal corporation having a population over 5,000 (if any state in the region does not have a municipal corporation of this size, this member will be selected from the elected officials of the largest municipal corporation in the region within the state);
- One elected public official of each township located in each Member county located in Ohio, which township has a population of 40,000 or more persons according to the Approved Census, such person to be selected by the governing body of the township concerned, plus
- One elected public official of a township located in each member county located in Ohio, which township has a population of less than 40,000 persons according to the approved census, such elected public official to be selected by the Association(s) of Township Directors and Clerks, or its equivalent, in those counties where such a body or bodies exists. If there is no selection by an appropriate Association of Township Directors and Clerks or if more than one Association could select such an elected public official, the COUNCIL may elect such an elected public official, plus
- One elected public official of each Member county located in Indiana and Kentucky or of a municipal corporation within such Member county, such public official to be selected by the respective Member county.
- One person selected by each area or county planning agency within the region;
- One person selected from each municipal planning agency of any municipal corporation having a population of over 40,000;
- Not more than 20 non-elected residents of the OKI region;
- Not more than ten (10) other elected public officials of general purpose local government from counties, municipal corporations, townships, special districts or other political subdivisions within the OKI Region, or persons responsible to such officials, as the Board of Directors may select.
- One person selected by each of the Departments or Cabinets of Transportation of Ohio, Kentucky and Indiana.
- One person selected by each of the Boards of Trustees of the Southwest Ohio Regional Transit Authority, the Transit Authority of Northern Kentucky and the Butler County Regional Transit Authority.

The constituency of the elected public officials of the Board must represent 75 percent of the aggregate population of the OKI region, and at least two-thirds of the Directors must be officials elected by the residents of the region.

### The Executive Committee consists of:

- The President, First Vice-President, Second Vice-President and Treasurer of the Board of Directors;
- Each Director selected pursuant to Article III, Paragraph B, Section 1.a., that is, an elected public official from each member county;
- Each Director selected from each municipal corporation having a population exceeding 40,000;
- Three Directors (one from each state within the OKI Region), selected pursuant to Article III, Paragraph B, Section 1b, each of whom was elected by a municipal corporation having a population less than 40,000. The Board of Directors shall select which of its members so qualifying shall serve on the Executive Committee.
- Four Directors selected pursuant to Article III, Paragraph B, Section 1.c (ii) or (iii). The Board of Directors shall select which of its members so qualifying shall serve on the Executive Committee; provided that if possible, the

Board of Directors shall select at least one Director who represents a township in Ohio having a population of less than 40,000 pursuant to Article III, Paragraph B, and Section 1.c (ii).

- Each Director selected by each legally constituted area or regional planning agency;
- Three additional Directors selected by the Board;
- One representative each from the Transit Authority of Northern Kentucky Board of Directors, the Southwest Ohio Regional Transit Authority Board of Trustees; and Butler County Regional Transit Authority.
- Representatives from the State Departments of Transportation.

Each member of the Executive Committee, may nominate one alternate to represent and to take the place of that member for all purposes including voting, at any meeting of the Executive Committee from which that member is absent. The constituency requirements and length of term for the Executive Committee are identical to that of the Board of Directors. The Board and/or the Executive Committee may create any committees they deem appropriate and necessary. Current standing committees include the Budget Committee (a subgroup of the Executive Committee), Intermodal Coordinating Committee (ICC), Groundwater Committee, OKI Land Use Commission, and the Community Advisory Committee.

The Executive Director is the administrator of OKI, responsible for carrying out the policies and programs of the Board of Directors and its Executive Committee and applicable federal and state laws and regulations. The Executive Director has the authority to employ, assign, supervise and release all employees of OKI, within the framework and general limitations and policies established by the Board of Directors and its Executive Committee.

## **2025 OFFICERS**

President	Josh Gerth
First Vice President	Bonnie Batchler
Second Vice President	Mark Jeffreys
Past President	Gary W. Moore
Treasurer	Kenneth F. Reed
Secretary	Mark R. Policinski

## **EXECUTIVE COMMITTEE**

Ann Becker	Bonnie Batchler	Susan Vaughn
Ryan Cook	Dale Paullus	Thomas Voss
Gina Douthat	Tom Peck	Christopher Wahlman
Dan Driehaus	Steve Pendery	Ron Washington
Mark Fette	Rick Probst	Robert Yeager
Josh Gerth	Sharmili Reddy	David G. Young
Doug Gruver	Denise Driehaus	
Darryl Haley	Kenneth Reed	
Shannon Hartkemeyer	T.C. Rogers	
Mark Jeffreys	Tony Rosiello	
Roger Kerlin	Jonathan D. Sams	
Kris Knochelmann	Steve Schramm	
Christopher Lawson	Karl B. Schultz	
Michael Logue	V. Anthony Simms-Howell	
Mary Makley Wolff	Elizabeth Slamka	
Gary W. Moore	Julie Smith-Morrow	
David Okum	Kevin Turner	
Brian Painter	Dan Unger	

## 2025 OKI BOARD OF DIRECTORS

### ***MEMBER COUNTIES***

Gary W. Moore, Boone County Fiscal Court  
T. C. Rogers, Butler County Board of Commissioners  
Steve Pendery, Campbell County Fiscal Court  
Bonnie Batchler, Clermont County Board of Commissioners  
Kevin Turner, Dearborn County Board of Commissioners  
Denise Driehaus, Hamilton County Board of Commissioners  
Kris A. Knochelmann, Kenton County Fiscal Court  
David G. Young, Warren County Board of Commissioners

### ***MUNICIPALITIES WITH POPULATION OVER 5,000***

Patrick Blair, Alexandria, KY  
Charlie Cleves, Bellevue, KY  
Brian Gath, Blue Ash, OH  
TBD, Cheviot, OH  
Mark Jeffreys, Cincinnati, OH  
D. Angelo Penque, Cold Spring, KY  
Ron Washington, Covington, KY  
Ben Baker, Dayton, KY  
Natasha Kohorst, Deer Park, OH  
Rob Thelen, Edgewood, KY  
Justin Wade, Elsmere, KY  
Jessica Fette, Erlanger, KY  
Dale Paullus, Fairfield, OH  
Gary Winn, Florence, KY  
Don Jones, Forest Park, OH  
Dr. Alyson Roeding, Ft. Mitchell, KY  
Ben Pendery, Ft. Thomas, KY  
Dave Hatter, Ft. Wright, KY  
Susan Vaughn, Hamilton, OH  
Doug Abrahms, Harrison, OH  
Greg Meyer, Highland Heights, KY  
Christopher Reinersman, Independence, KY  
Pat Stern, Indian Hill, OH  
Mark Fette, Lawrenceburg, IN  
Brad Lamoreaux, Lebanon, OH  
Ted Phelps, Loveland, OH  
Doug Moormann, Madeira, OH  
Joy Bennett, Mason, OH  
Elizabeth Slamka, Middletown, OH  
Kim Chamberland, Milford, OH  
Ben Wagner, Monroe, OH  
Chris Dobrozsi, Montgomery, OH  
TBD, Mt. Healthy, OH  
Julie Smith-Morrow, Newport, KY  
Mary DeWald, North College Hill, OH  
Susan Hoover, Norwood, OH  
Michael Smith, Oxford, OH

Robert Boehner, Reading, OH  
Glen Lovitt, Sharonville, OH  
TBD, South Lebanon, OH  
Jeffrey P. Anderson, Springdale, OH  
Dan Bell, Taylor Mill, KY  
Floyd Croucher, Trenton, OH  
Larry Solomon, Union Hills, KY  
Seth Thompson, Villa Hills, KY  
Dan Driehaus, Wyoming, OH

***BOARDS OF TOWNSHIP TRUSTEES 40,000 OR MORE POPULATION***

Josh Gerth, Anderson Township  
Dan Unger, Colerain Township  
Tony Rosiello, Green Township  
Steve Schramm, Liberty Township  
Mary Makley Wolff, Miami Township  
Michael Logue, Union Township  
Ann Becker, West Chester

***BOARDS OF TOWNSHIP TRUSTEES UNDER 40,000 OR MORE POPULATION***

Shannon Hartkemeyer, Butler County Association of Townships Trustee & Clerks  
Tom Peck, Clermont County Township Association  
Thomas Weidman, Hamilton County Township Association  
Jonathan D. Sams, Warren County Association of Township Trustee & Clerks

***PUBLIC OFFICIALS FROM KENTUCKY AND INDIANA***

Jesse Brewer, Boone County Fiscal Court  
Brian Painter, Campbell County Fiscal Court  
Vince Karsteter, City of Greendale, IN  
TBD, Kenton County Fiscal Court

***PLANNING COMMISSIONS***

Randy Bessler, Boone County Planning Commission  
David C. Fehr, Butler County Planning Commission  
Sharon Haynes, Campbell County Planning & Zoning Commission  
Darin Hinners, Clermont County Planning Commission  
Nicole Daily, Dearborn County Planning Commission  
David Okum, Hamilton County Regional Planning Commission  
Gailen W. Bridges, Kenton County Planning Commission  
Sharmili Reddy, Planning & Development Services of Kenton County  
Ryan Cook, Warren County Regional Planning Commission

***MUNICIPAL PLANNING COMMISSIONS 40,000 OR MORE POPULATION***

Emily Ahouse, Cincinnati (City) Planning Commission  
Greg Kathman, Fairfield (City) Planning Commission  
Lauren Nelson, Hamilton (City) Planning Commission  
Claire Feters, Middletown (City) Planning Commission

***VOTING EX-OFFICIO MEMBERS***

Chris Wahlman, Indiana Department of Transportation  
Robert Yeager, Kentucky Transportation Cabinet  
Doug Gruver, Ohio Department of Transportation  
Christopher Lawson, Butler County Regional Transit Authority  
Darryl Haley, Southwest Ohio Regional Transit Authority  
Gina Douthat, Transit Authority of Northern Kentucky

***RESIDENTS***

Craig Beckley, Resident  
Laura N. Brunner, The Port  
Jeffrey Earlywine, Resident  
Rob Franxman, Boone County Engineer  
Shannon Jones, Warren County Board of Commissioners  
Liz Keating, Resident  
Roger Kerlin, Resident  
Eric Kranz, Dearborn County Chamber of Commerce  
Henry Menninger, Jr., Resident  
Pete Metz, Cincinnati USA Regional Chamber  
Pamela E. Mullins, Resident  
Rick Probst, Resident  
Kenneth F. Reed, Resident  
Sal Santoro, Resident  
Karl B. Schultz, Resident  
V. Anthony Simms-Howell, Resident  
Spencer Stork, Kenton County Public Works  
Thomas Voss, Resident  
Will Weber, Southbank Partners  
Melissa Wideman, CVG Airport Authority

***OTHER ELECTED OFFICIALS AND PERSONS RESPONSIBLE TO ELECTED OFFICIALS OR FROM SPECIAL PURPOSE DISTRICTS***

Eric Beck, Hamilton County Engineer  
Claire Corcoran, Clermont County Board of Commissioners  
Jeremy Evans, Clermont County Engineer  
Tom Grossman, Warren County Board of Commissioners  
J. Todd Listerman, Dearborn County Engineer  
David Painter, County Board of Commissioners  
Alicia Reece, Hamilton County Board of Commissioners  
Stephanie Summerow Dumas, Hamilton County Board of Commissioners  
Kurt Weber, Warren County Engineer  
Gregory Wilkens, Butler County Engineer

**OKI LAND USE COMMISSION**

(Entire Board serves – Ken Reed, Chair)

## **INTERMODAL COORDINATING COMMITTEE**

**CHAIR:** Adam Goetzman, Green Township  
**FIRST VICE CHAIR:** Dan Corey, Butler County TID  
**SECOND VICE CHAIR:** Robert Franxman, Boone County Fiscal Court

### ***At-Large***

Great Parks, Frank Busofsky  
Hamilton Township, Jeff Wright  
John R. Jurgensen, Josh Carter  
Tri-State Trails, Wade Johnston

### ***Aviation***

Cincinnati/N. Kentucky International Airport, Debbie Conrad  
City of Cincinnati, Jaime Edrosa

### ***Bike/Pedestrian***

Cincinnati Cycle Club, No Representation

### ***Chamber of Commerce***

Northern Kentucky Chamber of Commerce, Tom Voss

### ***Cities over 100K Population***

City of Cincinnati, Chris Ertel  
City of Cincinnati, Brian Goubeaux  
City of Cincinnati, Diego Jordan

### ***Ohio Cities over 40K Population***

City of Fairfield, Nick Dill  
City of Fairfield, Erin Lynn  
City of Hamilton, J. Allen Messer  
City of Hamilton, Ed Wilson  
City of Middletown, Bill Horst  
City of Middletown, Scott Tadych

### ***Kentucky Cities over 40K Population***

City of Covington, No Representation  
City of Covington, No Representation

### ***County Engineer/Road Manager***

Boone County Fiscal Court, Robert Franxman  
Butler County Engineer's Office, Gregory Wilkens  
Campbell County Fiscal Court, Luke Mantle  
Clermont County Engineer's Office, Jeremy Evans  
Dearborn County Dept. of Transportation & Engineering, J. Todd Listerman  
Hamilton County Engineer's Office, Todd Long  
Kenton County Engineer's Office, Brandon Seiter  
Warren County Engineer's Office, No Representation



***County Planning***

Boone County Planning Commission, Jenna LeCount  
Butler County Regional Planning Commission, David Fehr  
Campbell County Fiscal Court, Cindy Minter  
Clermont County Planning and Development, No Representation  
Dearborn County Planning Commission, Nicole Daily  
Hamilton County Regional Planning Commission, Mark Boswell  
Northern Kentucky Area Development District, Jeff Thelen  
PDS of Kenton County, Laura Tenfelde  
Warren County Regional Planning Commission, Hadil Lababidi

***Department of Transportation***

Indiana Department of Transportation, Emmanuel Nsonwu  
Kentucky Transportation Cabinet, District 6, Dane Blackburn  
Kentucky Transportation Cabinet, Thomas Witt  
Ohio Department of Transportation, District 8, Taylor Webster  
Ohio Department of Transportation, District 8, Andrea Henderson

***CA Representative***

Community Advisory Committee, No Representation

***Environmental***

Hamilton County Department of Environmental Services, Brad Johnson  
Northern Kentucky Health Department, Kelly Schwegman

***Federal Highway Administration***

Federal Highway Administration/Indiana, Patrick Carpenter  
Federal Highway Administration/Kentucky, Nick Vail  
Federal Highway Administration/Ohio, Sam Wallace

***Freight***

No Representation

***IN City under 40K Population***

No Representation

***KY City under 40K Population***

City of Edgewood, Rob Thelen  
City of Florence, Tom Gagnon  
City of Newport, Brian Steffen

***OH City under 40K Population***

City of Forest Park, Christopher Anderson  
City of Lebanon, Jason Millard  
City of Loveland, No Representation  
City of Oxford, Sam Perry  
City of Trenton, No Representation

**Port Authority**

Greater Cincinnati Redevelopment Authority, No Representation

**Transportation Improvement District**

Butler County Transportation Improvement District, Dan Corey

Clermont County Transportation Improvement District, No Representation

Hamilton County Transportation Improvement District, Eric Beck

Warren County Transportation Improvement District, No Representation

**Townships over 40K Population**

Anderson Township, Steve Sievers

Colerain Township, David Miller

Green Township, Adam Goetzman

Liberty Township, Bryan Behrmann

Miami Township, Brian Elliff

Union Township, Cory Wright

West Chester Township, Mike Huxsoll

**Transit**

Butler County Regional Transit Authority, Russell Auwae

City of Cincinnati Streetcar, Matthew Hulme

Clermont Transportation Connection, Jessica Powell

Federal Transit Authority, Indiana, No Representation

Middletown Transit Service, No Representation

SORTA, Steve Anderson

TANK, Olivia Tussey

Warren County Transit Service, Susanne Mason

**CORRIDOR STUDY/SPECIAL PURPOSE COMMITTEE CHAIRS**

COMMUNITY ADVISORY COMMITTEE – Adam Goetzman, Chair

GROUNDWATER COMMITTEE – Bruce Whitteberry, Chair

**OKI COMMUNITY ADVISORY COMMITTEE**

Adam Goetzman, Chair

Megan Bessey, Planning & Development Services Kenton County

Karla Boldery, La Mega Media

Scott Brown, Ohio Department of Transportation, District 8

Frank Busofsky, Great Parks of Hamilton County

Nancy Cahall, Council on Aging of Southwestern Ohio

Tyeisha Cole, Cincinnati NAACP

Jaeydah Edwards, Groundwork Ohio River Valley

James A. Foster, Resident, Trenton, Ohio

Jenna LeCount, Boone County Planning Commission

Erin Lynn, City of Fairfield

Cindy Minter, Campbell County Planning & Zoning

Rosalind Moore, City of Forest Park

Pamela Mullins, Resident, Covington, Kentucky

Keith Smith, Ohio Department of Transportation – District 8

Olivia Tussey, TANK, Transit Authority of Northern Kentucky

## **COMMITTEE BY-LAWS**

The following pages contain copies of by-laws for the:

- OKI Board of Directors
- Intermodal Coordinating Committee (ICC)
- Community Advisory Committee



720 East Pete Rose Way, Suite 420  
Cincinnati, Ohio 45202  
[www.oki.org](http://www.oki.org)

## **OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS**

### **AMENDED AND RESTATED ARTICLES OF AGREEMENT**

#### **WITNESSETH:**

A. Effective as of August 23, 1973 the governing bodies of Hamilton County, Butler County, Clermont County and Warren County of the State of Ohio; Boone County, Campbell County and Kenton County of the Commonwealth of Kentucky; and Dearborn County and Ohio County of the State of Indiana (collectively herein referred to as the "Original Members") created a Regional Council of Governments, pursuant to Chapter 167 of the Ohio Revised Code, known as the Ohio-Kentucky-Indiana Regional Council of Governments (sometimes referred to herein as "OKI") pursuant to certain Articles of Agreement (herein called the "Original Articles"); and

B. In 1986, Ohio County, Indiana withdrew as a member of OKI (the Original Members excluding Ohio County are sometimes referred to herein as the "Current Members");

C. The Original Articles were amended and modified effective as of October 7, 1993 (such amendment is sometimes referred to herein as the "1993 Amendment"); and

D. The Current Members desire to amend and restate the Original Articles as amended and modified by the 1993 Amendment (collectively, the "Amended Articles") in order to modify and to clarify certain provisions therein and in order to add certain additional members to the Board of Directors and the Executive Committee;

NOW THEREFORE, the Current Members hereby amend and restate the Amended Articles, such amended and restated Amended Articles (herein referred to as the "Amended and Restated Articles of Agreement") being effective as of the date, and only as of the date, on which [1] the governing body of each of the Current Members has adopted a resolution authorizing the amendment of the Amended Articles and the execution of these Amended and Restated Articles of Agreement, [2] the governing body of each of the Current Members has executed these Amended and Restated Articles of Agreement and [3] these Amended and Restated Articles of Agreement have been reviewed by the Attorney General of Kentucky and the Attorney General of Indiana and, if required, signed by them signifying such action, if any, required by applicable statute.

The parties hereto agree that the Amended and Restated Articles of Agreement of Ohio-Kentucky-Indiana Regional Council of Governments (hereafter the "Articles") are as follows:

# OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS

## AMENDED AND RESTATED ARTICLES OF AGREEMENT

### ARTICLE I

#### NAME, AREA TO BE INCLUDED ESTABLISHMENT AND AUTHORIZATION

Section 1. The organization shall be known as the **Ohio-Kentucky-Indiana Regional Council Of Governments** (herein called "COUNCIL") and shall consist of members who shall be the counties who are now or may hereafter become parties to these Articles or qualified persons or entities who are later admitted to membership pursuant to these Articles (such members are hereinafter referred to as the "Members").

Section 2. The area included within the COUNCIL shall be the entire area of the composite counties which are Members of the COUNCIL (herein called the "OKI Region").

Section 3. These Articles are adopted pursuant to Chapter 167 of the Ohio Revised Code, Section 65.210 *et seq.* of the Kentucky Revised Statutes, and Section 36-1-7 *et seq.* of the Indiana Statutes (the Original Articles and Amended Articles having been adopted pursuant to Chapter 167 of the Ohio Revised Code, Section 65.210 *et seq.* of the Kentucky Revised Statutes, and Indiana Code 53-1101 *et seq.*).

### ARTICLE II

#### POWERS AND PURPOSES

Section 1. The COUNCIL shall have the power to do all things which Chapter 167 of the Ohio Revised Code requires or permits it to do, including the power to carry out the purposes set forth below, provided that the COUNCIL shall not have the power to do any act prohibited by the constitution or statutes of Ohio, Kentucky or Indiana. Such powers shall include, without limitation, the power to adopt rules of procedure for the regulation of its affairs and the conduct of its business and the power to appoint such committees and advisory groups as the COUNCIL may deem appropriate to assist it in carrying out its purposes.

Section 2. The powers of the COUNCIL may be exercised to achieve the following purposes:

- a. To be a public body and to provide such services within the OKI Region as applicable law will permit and the Board of Directors or the Executive Committee require in order to foster and develop better coordination, protection and satisfaction of the interests and needs of the public governing bodies within the OKI Region.

- b. To provide coordinated planning services to the appropriate federal, state and local governments, their political subdivisions, agencies, departments, instrumentalities, special districts and private agencies or entities in connection with the preparation and development of a comprehensive and continuing regional transportation and development plan within the OKI Region, and to engage in comprehensive planning in (but not limited to) matters affecting land use, housing, community facilities, capital improvements, metropolitan and regional development, transportation facilities, health, welfare, safety, education, economic conditions, water supply and distribution facilities, waste treatment and disposal, water and land conservation, and any other type of project which the COUNCIL deems necessary, appropriate or desirable with respect to comprehensive planning and development within the OKI Region. Such planning may be done directly by personnel of the COUNCIL, or under contracts between the COUNCIL and other public or private agencies or entities.
- c. To promote cooperative agreements, contracts and other compacts among and between governments, their political subdivisions, agencies, departments, instrumentalities and special districts, and private persons, corporations, and other agencies interested in the OKI Region.
- d. To serve as an areawide review agency in conjunction with comprehensive planning within the OKI Region.
- e. To receive and accept funds, grants, gifts, assistance, bequests, services and other contributions from any federal, state or local government or any of their political subdivisions, agencies, departments, instrumentalities, or special districts, or from any private or civic source, and to enter into contracts and agreements with respect thereto;
- f. To expend funds, grants, gifts, assistance, bequests, services and other contributions received from any federal, state or local government or any of their political subdivisions, agencies, departments, instrumentalities, or special districts, or from any private or civic source, and to enter into contracts and agreements with respect thereto;
- g. To the extent permitted by law, to establish and charge fees for services rendered, and to recover costs and expenses incurred by the COUNCIL in providing services, for or on behalf of any federal, state or local government or any of their political subdivisions, agencies, departments, instrumentalities, or special districts, or to any private person or entity.
- h. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers.

- i. To purchase, acquire, own, hold, operate, maintain, lease or sell real, personal, tangible or intangible property.
- j. To the extent permitted by law, to hold, provide, promote, sponsor or otherwise support, by itself or together with others, public hearings, public forums and educational, civic, cultural, philanthropic or other events, programs, meetings or gatherings which the COUNCIL deems necessary, appropriate or desirable.
- k. To establish and maintain, or to help establish and maintain, an interstate, multi-county and metropolitan-wide public body which will be responsible for, and to cooperate with other public, private or civic persons or entities for the benefit of the OKI Region in, the formulation of goals and objectives for economic, social and physical development within and enhancement of the OKI Region and to prepare, develop and keep current a comprehensive plan for the OKI Region toward the attainment of these goals.
- l. To supply or provide for any matching funds required by any application for funding submitted by the COUNCIL or any grant received by the COUNCIL or agreement to be executed by the COUNCIL.
- m. To take such other actions, do such other things or undertake such other programs as are necessary, appropriate or desirable to effectuate any other lawful purpose of the COUNCIL deemed necessary, appropriate or desirable by the Board of Directors or the Executive Committee.

Section 3. The authority granted to the COUNCIL by law or by these Articles shall not displace any existing municipal, township, county, regional or other planning commission or planning agency in the exercise of its statutory powers unless otherwise agreed by OKI and by all federal, state and local governments and any of their political subdivisions, agencies, departments, instrumentalities and special districts which are effected, including without limitation any commissions and agencies which are directly effected, and then only to the extent such displacement is permitted by law.

### ARTICLE III

#### GOVERNANCE

##### A. GENERAL

The activities of the COUNCIL shall be conducted by the Board of Directors which shall act by vote of its members as provided in these Articles or the By-Laws or through its Executive Committee by vote of its members as provided in these Articles or the By-Laws. Any act of the Board of Directors shall be an act of the COUNCIL. The Executive Committee shall have all the power of the Board of Directors however conferred, and may take any action which the Board of



Directors may take in the name of and on behalf of the Board of Directors, except as otherwise expressly provided herein or in the By-Laws.

## B. BOARD OF DIRECTORS

Section 1. A Board of Directors is hereby created for purposes of conducting the activities of the COUNCIL, consisting of the following persons:

- a. One (1) public official elected to the governing body of each Member county selected by such governing body.
- b. One (1) elected public official of each municipal corporation located in each Member county, which municipal corporation has a population of 5,000 or more persons according to the most recently published federal census (or if more than five years has passed since the publication date of such federal census, any other census or population estimate or determination, whether federal or state, approved by the majority vote of the Members; whichever census is used being herein after referred to as the "Approved Census"), except that if, within the OKI Region, any County does not contain a municipal corporation with a population of 5,000 or more persons, then an elected public official of the largest municipal corporation within the OKI Region of such County shall be chosen. This person shall be selected by the governing body of the municipal corporation concerned.
- c.
  - (i) One (1) elected public official of each township located in each Member county located in Ohio, which township has a population of 40,000 or more persons according to the Approved Census, such person to be selected by the governing body of the township concerned, plus
  - (ii) One (1) elected public official of a township located in each Member county located in Ohio, which township has a population of less than 40,000 persons according to the Approved Census, such elected public official to be selected by the Association(s) of Township Trustees and Clerks, or its equivalent, in those counties where such a body or bodies exists. If there is no selection by an appropriate Association of Township Trustees and Clerks or if more than one Association could select such an elected public official, the COUNCIL may elect such an elected public official, plus
  - (iii) One (1) elected public official of each Member county located in Indiana and Kentucky or of a municipal corporation within such Member County, such public official to be selected by the respective Member county.
- d. One (1) person selected by each legally constituted county planning agency or commission of each Member county, and if the Member county is within an area in which a legally constituted area or regional planning agency has jurisdiction, then, in addition, one (1) person selected by such area or regional planning agency. If two or more Member counties are within the jurisdiction of

the same area or regional planning agency, such agency shall be entitled to select only one person to be a Director pursuant to this subparagraph d.

e. One (1) person selected by each planning agency or commission of each municipal corporation located in each Member county, provided the population of said municipal corporation exceeds 40,000 according to the Approved Census.

f. Not more than twenty (20) residents of the OKI Region selected by the Board of Directors.

g. Not more than ten (10) other elected public officials of general purpose local government from counties, municipal corporations, townships, special districts or other political subdivisions within the OKI Region, or persons responsible to such officials, as the Board of Directors may select.

Section 2. The following shall be voting ex-officio Directors:

a. One (1) person selected by each of the Departments or Cabinets of Transportation of Ohio, Kentucky and Indiana.

b. One (1) person selected by each of the Boards of Directors of the Southwest Ohio Regional Transit Authority, the Transit Authority of Northern Kentucky and the Butler County Regional Transit Authority.

Section 3. The constituency of the elected public officials who are Directors shall include at least seventy-five percent (75%) of the aggregate population of the OKI Region and at least two-thirds (2/3rds) of the Directors shall be public officials who are elected by residents of the OKI Region. If at any time the Board of Directors does not meet these requirements, the COUNCIL shall take whatever action is necessary to provide for such representation (subject to applicable law), including without limitation, the removal of existing Directors.

Section 4. Except as otherwise specified herein, each Director shall serve for a term of one (1) year and/or until the successor of such Director is selected and qualified. The term of any Director shall terminate (a) upon the death, disability or resignation of such Director, (b) if and when the Director ceases to meet the applicable qualifications set forth in Sections 1 and 2 of this Article III, Paragraph B or (c) upon the removal of the Director pursuant to Article III, Paragraph B, Section 3 above.

Section 5. The Board of Directors shall make an annual report of the COUNCIL's activities to the Members of the COUNCIL.

### C. EXECUTIVE COMMITTEE

Section 1. An Executive Committee is hereby created with full power to act for and on behalf of the Board of Directors, consisting of the following persons:

- a. The President, First Vice-President, Second Vice-President and Treasurer of the Board of Directors.
- b. Each Director selected pursuant to Article III, Paragraph B, Section 1.a., that is, an elected public official from each Member county.
- c. Each Director selected pursuant to Article III, Paragraph B, Section 1.b who was elected by a municipal corporation having a population in excess of 40,000 and each Director selected pursuant to Article III, Paragraph B, Section 1.c.(i) who was elected by a township having a population in excess of 40,000.
- d. Three (3) Directors (one from each state within the OKI Region), selected pursuant to Article III, Paragraph B, Section 1b, each of whom was elected by a municipal corporation having a population less than 40,000. The Board of Directors shall select which of its members so qualifying shall serve on the Executive Committee.
- e. Four (4) Directors selected pursuant to Article III, Paragraph B, Section 1.c.(ii) or (iii). The Board of Directors shall select which of its members so qualifying shall serve on the Executive Committee; provided that if possible, the Board of Directors shall select at least one Director who represents a township in Ohio having a population of less than 40,000 pursuant to Article III, Paragraph B, Section 1.c.(ii).
- f. Each Director selected by each legally constituted area or regional planning agency pursuant to Article III, Paragraph B, Section 1.d.
- g. Two (2) Directors selected by the Board of Directors as residents of the OKI Region pursuant to Article III, Paragraph B, Section 1.f. The Board of Directors shall select which of its members so qualifying shall serve on the Executive Committee.
- h. Three (3) additional Directors selected by the Board of Directors.

One person can satisfy the requirements of more than one category specified in this Article III, Paragraph C, Sections 1.a through 1.h.

Section 2. Those persons who are voting ex-officio Directors pursuant to Article III, Paragraph B, Section 2, shall also be voting ex-officio members of the Executive Committee.

Section 3. The constituency of the elected public officials who are members of the Executive Committee shall include at least seventy-five percent (75%) of the aggregate population of the OKI Region and at least two-thirds (2/3rds) of the members of the Executive Committee shall be public officials who are elected by residents of the OKI Region. If at any

time membership of the Executive Committee does not meet these requirements, the COUNCIL shall take whatever action is necessary to provide for such representation, including without limitation, the removal of existing members of the Executive Committee and the replacements of such removed members with elected public officials.

Section 4. Each member of the Executive Committee may nominate one alternate to represent and to take the place of that member for all purposes including voting, at any meeting of the Executive Committee from which that member is absent. While not required, it is preferable if each alternate is a member of the Board of Directors elected or appointed to the Board pursuant to the same subsection of Section 1 or 2 of Article III.B. of these Articles as the member of the Executive Committee such alternate is representing. Alternates shall be elected by the Board of Directors from those persons so nominated. Any member of the Executive Committee may revoke the authority of the alternate for such member by serving appropriate written notice on the President of the COUNCIL, which shall be effective upon receipt.

Section 5. Except as otherwise specified herein, each member of the Executive Committee shall serve for a term of one (1) year and/or until the successor of such member is selected and qualified. The term of any member shall terminate (a) upon the death, disability or resignation of such member, (b) if and when the member ceases to meet the applicable qualifications set forth in Sections 1 and 2 of this Article III, Paragraph C or (c) upon the removal of the member pursuant to Article III, Paragraph C, Section 3 above.

Section 6. The President of the COUNCIL shall serve as the Chair of the Executive Committee. In the President's absence, the First Vice-President of the COUNCIL shall serve as such Chair. The Executive Director of the COUNCIL shall serve as the Secretary of the Executive Committee.

#### D. BUDGET COMMITTEE

The Budget Committee of the COUNCIL shall consist of one elected public official from the governing board of each of the Member counties, except that Kenton County may be represented on the Budget Committee by a representative of the Northern Kentucky Area Planning Commission. In addition, any officer of the COUNCIL who is not a member of Budget Committee as a result of the immediately preceding sentence shall be a voting ex-officio member of the Budget Committee.

#### E. PARTICIPANTS NOT TO BENEFIT

No person may be a member of the Board of Directors or Executive Committee of the COUNCIL if such person or the family, employees or agents of such person has any direct or indirect financial interest in any contract to which the COUNCIL is a party, and no part of the income of the COUNCIL shall be diverted in any manner, directly or indirectly, or otherwise inure to the benefit of any such person.

## **ARTICLE IV**

### **BUDGET AND FINANCING**

The COUNCIL shall be financed in the following manner:

Section 1. An annual budget for the COUNCIL shall be proposed by the Budget Committee and presented to the Executive Committee of the COUNCIL for review and adoption.

Section 2. The COUNCIL and the governing board of each of the Member counties shall contract periodically for the payment of annual dues by such Member counties to support the work of the COUNCIL. Such dues from the Member counties shall be on a "per capita basis" based on the population of the respective Member counties as reflected in the Approved Census, or on such other equitable basis as may be determined by the Budget Committee and approved the COUNCIL. In addition, the COUNCIL may from time to time contract for the payment of local funds and other support with, or accept funds, grants, gifts and services from, such other federal, state or local government or any of their political subdivisions, agencies, departments, instrumentalities, or special districts, or with other public, private or civic sources, to provide such funds and support. The support from persons other than the Member counties may be on such basis as is approved by the Executive Director or the Executive Committee.

## **ARTICLE V**

### **OFFICERS AND EXECUTIVE DIRECTOR**

Section 1. The officers of the COUNCIL shall be a President, a First Vice-President, a Second Vice-President, a Secretary, a Treasurer and such other officers as the Directors shall deem advisable and appoint. The officers shall be chosen by the Directors and shall hold office for one (1) year and/or until their respective successors are elected and qualified. The officers shall perform the duties customarily performed by officers holding their respective positions and shall have such further duties as may be designated to them from time to time by the Board of Directors.

Section 2. The Executive Director shall be the Secretary of the Council. In addition, the Executive Director shall be the administrator of the COUNCIL responsible for carrying out the policies and programs of the COUNCIL in accordance with the Articles, By-Laws and policies of the Board of Directors and its Executive Committee, as well as applicable federal, state and local laws, rules and regulations. The Executive Director shall have the authority to employ, assign, supervise, and release all employees and staff of the COUNCIL within the framework and general limitations and policies established by the Board of Directors and its Executive Committee.

## **ARTICLE VI**

### **WITHDRAWAL AND DISSOLUTION**

Section 1. Any Member county of the COUNCIL may withdraw its membership upon written notice to the COUNCIL, which withdrawal shall be effective two (2) years after receipt of the notice by the COUNCIL.

Section 2. The COUNCIL shall exist for a term of five (5) years, which term shall automatically renew for further terms of five (5) years each, unless two-thirds ( $\frac{2}{3}$ ) of the Member counties shall, by legislative action, elect that such term shall not be renewed and shall have furnished certified evidence of such action to the COUNCIL not less than one hundred eighty (180) days prior to the expiration of any such term.

Section 3. On dissolution after payment of all outstanding obligations and liabilities of the COUNCIL and the providing of sufficient funds to insure the completion of any project for which federal funds have been received, the COUNCIL's net assets of every nature and description which have been contributed by public bodies shall revert to the said public bodies in proportion to each body's contribution towards the said assets and any balance thereof shall be paid over and transferred to one or more corporations, trusts, community chests, funds or foundations organized and operated exclusively for educational, charitable, scientific or literary purposes, no substantial part of the activities of which is the carrying on of propaganda or otherwise attempting to influence legislation, no part of the activities of which shall be the participation in or intervention in any political campaign for any political office, directly or indirectly, and no part of the net earnings of which inures to the benefit of a private shareholder or individual.

## **ARTICLE VII**

### **AMENDMENTS**

These Articles may be amended or repealed or new Articles may be adopted by unanimous consent of the Members comprising the COUNCIL. Any such amendment shall be effective upon such adoption and the obtaining of any approval required by applicable statute to be obtained prior to such amendment being effective.

## **ARTICLE VIII**

### **INDEMNIFICATION**

Section 1. Subject to the provisions of Article VIII, Section 2 hereof, the COUNCIL shall indemnify each present and future Director, officer, employee or agent of the COUNCIL against any losses, liabilities, costs and expenses, including counsel fees, which may be imposed on or reasonably incurred by such person in connection with any claim, demand, action, suit or proceeding hereafter made, instituted or threatened in which such person may be involved by

reason of such person being or having been a Director or officer or employee or agent of the COUNCIL, whether such person continues to be a Director or officer or employee or agent at the time of the imposition of such costs or incurring of such losses, liabilities or expenses or not, such losses, liabilities, costs and expenses to include without limitation the cost of such Director or officer or employee or agent of reasonable settlements, other than amounts paid to the COUNCIL itself.

Section 2. Notwithstanding anything else set forth in these Articles, the COUNCIL shall not indemnify any Director or officer or employee or agent with respect to matters as to which such person shall be finally adjudged in any such action, suit or proceeding to be liable by reason of negligence, misconduct or dereliction in the performance of such person's duties as such Director or officer or employee or agent. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the COUNCIL is advised by its counsel that the person to be indemnified did not commit a breach of duty involving negligence, misconduct or dereliction of duty.

Section 3. The foregoing rights of indemnification shall not be exclusive of other rights to which any Director or officer or employee or agent may be entitled as a matter of law, and shall inure to the benefit of the heirs, executors and administrators of any such Director or officer or employee or agent.

## ARTICLE IX

### EFFECTIVE DATE


These Amended and Restated Articles of Agreement shall become effective as of the date, and only as of the date, on which [1] the governing body of each of the Current Members has adopted a resolution authorizing the amendment of the Amended Articles and the execution of these Amended and Restated Articles of Agreement, [2] the governing body of each of the Current Members has executed these Amended and Restated Articles of Agreement and [3] these Amended and Restated Articles of Agreement have been reviewed by the Attorney General of Kentucky and the Attorney General of Indiana and, if required, signed by them signifying such action, if any, required by applicable statute.

## ARTICLE X

Additional members may be admitted to the COUNCIL with the approval of the Board of Directors by adopting and becoming a party of these Articles, and by fulfilling such requirements as may imposed by the Board of Directors as conditions to membership. Such conditions may include, without limitation, payment, or execution of agreements satisfactory to the COUNCIL to pay, such sums, charges, costs and expenses as the Board of Directors may specify (which may, for example, include costs and expenses to the COUNCIL of updating the records and data bases of the COUNCIL to incorporate appropriate information regarding the new members).

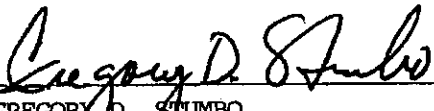
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The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana Regional Council of Governments are approved as to form and legality.

  
Name: Jason Thompson  
for Attorney General of the State of Indiana  
Date: effective 12-15-06



The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana Regional Council of Governments are approved as to form and legality.

  
Name: GREGORY D. STUMBO  
Attorney General of the Commonwealth of Kentucky  
Date: 11-3-06

The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana Regional Council of Governments are approved.

Indiana Department of Transportation

By: Mark A. O'Brien  
Name: Mark A. O'Brien  
Deputy Commissioner, Chief Counsel  
Date: October 24, 2006  
Reviewed and approved. DCH

The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana Regional Council of Government are approved this 6th day of July, 2006.

Commissioner Fox            Aye ✓            Nay       

Commissioner Furman      Aye ✓            Nay       

Commissioner Jolivet      Aye ✓            Nay       

**BUTLER COUNTY (OHIO) BOARD OF COMMISSIONERS**

By: *Greg Jolivet*

Name: GREGORY V. JOLIVETTE

Title: PRESIDENT

Date: 7/6/06

**ATTEST:**

By: *Michael F. Jorgensen*

Name: Michael F. Jorgensen

Title: Director of Development

Date: 7/6/06

The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana Regional Council of Governments are approved this 19th day of July, 2006.

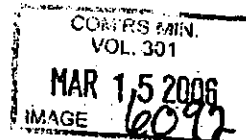
Commissioner <u>Walker</u>	Aye <u>X</u>	Nay _____	
Commissioner <u>Proud</u>	Aye <u>X</u>	Nay _____	
Commissioner <u>Crosswell</u>	Aye _____	Nay _____	Absent <u>X</u>

**CLERMONT COUNTY (OHIO) BOARD OF COMMISSIONERS**

By: Mary C. Walker  
Name: MARY C. WALKER  
Title: PRESIDENT  
Date: July 19, 2006

ATTEST:

By: Judith Kocica  
Name: Judith Kocica  
Title: Clerk of the Board  
Date: July 19, 2006



On motion of Mr. Heimlich , seconded by Mr. DeWine

1 The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana Regional Council of Governments are approved this 15th day of March.

Commissioner DeWine Aye X Nay     

Commissioner Heimlich Aye X Nay     

Commissioner Portune Aye X Nay     

**HAMILTONCOUNTY (OHIO) BOARD OF COMMISSIONERS**

By: Phil Heimlich

Name: **PHIL HEIMLICH**

Title: **PRESIDENT**

Date: March 15, 2006

**ATTEST:**

By: Jacqueline Parioto

Name: Jacqueline Parioto


Title: Clerk of the Board

Date: March 15, 2006

The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana Regional Council of Governments are approved this 23<sup>rd</sup> day of March 2006.

Commissioner <u>Young</u>	Aye _____	Nay _____	Absent <input checked="" type="checkbox"/>
Commissioner <u>Kilburn</u>	Aye <input checked="" type="checkbox"/>	Nay _____	
Commissioner <u>South</u>	Aye <input checked="" type="checkbox"/>	Nay _____	

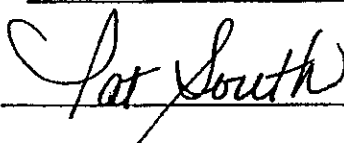
**WARREN COUNTY (OHIO) BOARD OF COUNTY COMMISSIONERS**

By: 

Name: C. MICHAEL KILBURN

Title: PRESIDENT

Date: 3/23/06

By: 

ATTEST:

By:  Tina Davis, Clerk

Name: Tina Davis

Title: Clerk

Date: March 23, 2006

2006 JUL 25 PM 1:41

The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana  
Regional Council of Governments are approved this 14<sup>th</sup> day of March, 2006.

**BOONE COUNTY (KENTUCKY) FISCAL COURT**

By: Gary W. Moore

Name: GARY W. MOORE

Title: JUDGE/EXECUTIVE

Date: 6-28-06

**ATTEST:**

By: Louis Kelly

Name: Louis Kelly

Title: Fiscal Court Clerk

Date: 6-28-06

The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana Regional Council of Government are approved this 11<sup>th</sup> day of April, 2006.

KENTON COUNTY (KENTUCKY) FISCAL COURT

By: R. Scott Kimich  
Name: R. Scott Kimich  
Title: Deputy Judge, Kenton County Fiscal Court  
Date: April 11, 2006

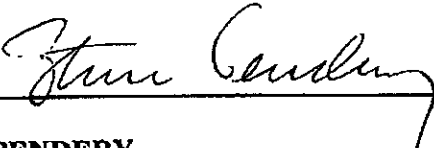
ATTEST:

By: Sarah C. Johnston  
Name: Sarah C. Johnston  
Title: Kenton County Fiscal Court Clerk  
Date: April 11, 2006



The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana Regional Council of Governments are approved this 29<sup>th</sup> day of MARCH, 2006.

**CAMBELL COUNTY (KENTUCKY) FISCAL COURT**

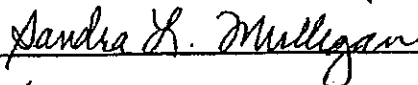
By: 

Name: **STEVE PENDERY**

Title: **JUDGE/EXECUTIVE**

Date: MARCH 29, 2006

**ATTEST:**

By: 

Name: SANDRA L. MULLIGAN

Title: FISCAL COURT CLERK

Date: MARCH 29, 2006

The foregoing Amended and Restated Articles of Agreement of the Ohio-Kentucky-Indiana Regional Council of Governments are approved this 21<sup>st</sup> day of March 06

Commissioner [Signature] Aye ✓ Nay       
Commissioner [Signature] Aye ✓ Nay       
Commissioner [Signature] Aye ✓ Nay     

**DEARBORN COUNTY (INDIANA) BOARD OF COMMISSIONERS**

By: [Signature]

Name: VERA BENNING

Title: PRESIDENT

Date: 3-21-06

**ATTEST:**

By: [Signature]

Name: Cary B. Pickett

Title: Auditor Dearborn Co

Date: March 21, 2006

**BY-LAWS  
OF THE  
OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS**

**Article I. Board of Directors**

**Section 1.     General**

a)     Authority: The authority of the Board of Directors shall be as set forth in the Articles of Agreement establishing the Council in effect from time to time (the "Articles of Agreement").

b)     Composition: The composition of the Board of Directors shall be as set forth in the Articles of Agreement. In selecting Board members designated under Article III B, Section 1.f. or 1.g. of the Articles of Agreement, a nomination of a township trustee will be requested from the Dearborn County Township Association. The person so nominated will be considered by the Board of Directors for a position on the Board within one of such categories.

**Section 2.     Meetings.**

a)     Place of Meetings. The Board of Directors may hold meetings at any location within or without the OKI Region.

b)     Annual Meeting. The annual meeting of the Board of Directors shall be held on the fourth Thursday of April or such other date determined by action of the Board of Directors.

c)     Meeting to Appoint and Elect Directors. The Board of Directors shall reconstitute itself in accordance with the Articles of Agreement and these By-Laws at its regular January meeting or at such other meeting as may be determined by action of the Board of Directors.

d)     Regular Meeting. The Board of Directors shall hold a regular meeting on the second Thursday of January, July and October unless waived by the order of the President or either Vice President or unless another date is established by action of the Board of Directors.

e)     Special Meetings. Special meetings shall be held upon the call of the President, either Vice President or any eight (8) Directors.

f)     Quorum. The presence in person of twenty percent (20%) of the membership of the Board of Directors shall constitute a quorum. The Directors present at a duly

organized meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough Directors to leave less than a quorum.

g) Voting. Each Director, including voting ex-officio Directors, shall be entitled to one vote. The Board of Directors shall act by majority vote of those present at any duly called meeting at which a quorum was present.

h) Notice.

(1) To Directors. Prior notice of every meeting of the Board of Directors stating the time and place, and the purpose thereof shall be given by personal delivery or by mail or, to the extent requested by members of the Board of Directors, by electronic mail transmission not less than two (2) days before the date of the meeting; provided that notice of any meeting may be waived in writing by any Director before or after such meeting. Attendance by a Director at a meeting shall constitute a waiver of notice of the meeting.

(2) To Others. A schedule of all regularly scheduled meetings of the Board of Directors shall be posted at such places as may be directed by the Executive Director, shall be included in a "web site" maintained by the Council, if any, and a copy shall be sent by mail or electronic mail transmission to any newspaper, radio station, television station or other member of the news media requesting such information. In the case of all special meetings of the Board of Directors, notice of such meetings shall be given to any member of the news media which has requested such notice in such a manner as to be received at least twenty-four hours in advance of any such special meeting; provided that if the special meeting is being called to deal with an emergency requiring immediate action, notice of the time, place and purpose of the meeting shall be given immediately to such members of the news media but need not be received by them at least twenty-four hours prior to the start of the meeting. A copy of the notices and agendas prepared for all regular and special meetings or a copy of the Council's Newsletter giving substantially the same information shall be given by mail or electronic mail transmission at least two days prior to the date of the meeting to all persons who have requested such information. At its election, the Executive Committee may require as a condition to such mailing or electronic mail transmission the payment by such persons on an annual basis of a sum sufficient to offset cost of such mailings or transmissions. If such mailings or electronic mail transmissions are not practical under the circumstances, the same information shall be given by telephone or other method reasonably adequate to provide such information as early as possible.

Section 3. Vacancies. Any vacancy in the Board of Directors may be filled for the unexpired term by the Executive Committee. The person filling the vacancy shall meet the applicable requirements imposed by Article III, Paragraph B of the Articles of Agreement.

## **Article II. Executive Committee**

Section 1. Composition and Authority. The composition and authority of the Executive Committee shall be as set forth in the Articles of Agreement.

Section 2. Meetings.

a) Place of Meetings. The Executive Committee may hold meetings at any location within or without the OKI Region.

b) Regular Meetings. The Executive Committee shall hold a regular meeting on the second Thursday of January, February, March, April, May, June, July, August, September, October, November, and December unless waived by the order of the President or either Vice President.

c) Special Meetings. Special meetings shall be held upon the call of the President, any Vice-President, or any 5 members of the Executive Committee.

d) Quorum. The presence in persons of one-half (½) of the members of the Executive Committee or their alternates duly selected as set forth in the Articles of Agreement (the "alternates") shall constitute a quorum. The members or alternates present at a duly organized meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough members or alternates to leave less than a quorum.

e) Voting. Each member, including voting ex-officio members, shall be entitled to one vote. The Executive Committee shall act by majority vote of those present at any duly called meeting at which a quorum was present.

f) Notice.

(1) To Members. There shall be no required notice for regular meetings of the Executive Committee, but for special meetings notice stating the time, place and purpose thereof, shall be given by personal delivery or by mail or, to the extent requested by members of the Executive Committee, by electronic mail transmission not less than two (2) days before the date of the meeting, provided that notice of any meeting may be waived in writing by any member before or after such meeting. Attendance by a member, whether in person or by an alternate, at a meeting shall constitute a waiver of notice of the meeting.

(2) To Others. A schedule of all regularly scheduled meetings of the Executive Committee shall be posted at such places as may be directed by the Executive Director, shall be included in a "web site" maintained by the Council, if any, and a copy shall be sent by mail or electronic mail transmission to any newspaper, radio station, television station or other member of the news media requesting such information. In the case of all special meetings of the Executive Committee, notice of such meetings shall be given to any member of the news media which has requested such notice in such a manner as to be received at least twenty-four hours in advance of any such special meeting; provided that if the special meeting is being called to deal with an emergency requiring immediate action, notice of the time, place and purpose of the meeting shall be given immediately to such members of the news media but need not be

received by them at least twenty-four hours prior to the start of the meeting. A copy of the notices and agendas prepared for all regular and special meetings or a copy of the Council's newsletter giving substantially the same information shall be given by mail or electronic mail transmission at least two days prior to the date of the meeting to all persons requesting such information. At its election, the Executive Committee may require as a condition to such mailing or electronic mail transmission the payment of such persons on an annual basis, of a sum sufficient to offset cost of such mailings or transmissions. If such mailings or electronic mail transmissions are not practical under the circumstances, the same information shall be given by telephone or other method reasonably adequate to provide such information as early as possible.

g) Reconsideration of Previous Action. Any issues brought up at a previous meeting of the OKI Executive Committee and acted upon will not be reconsidered at a subsequent meeting without prior written notice to Executive Committee members.

Section 3. Vacancies. Any vacancy in the Executive Committee shall be filled for the unexpired term by the Executive Committee. The person filling the vacancy shall meet the applicable requirements imposed by Article III, Paragraph C of the Articles of Agreement. Vacancies in alternates shall be filled by the Executive Committee from those qualified persons nominated by the member who is without an alternate.

### **Article III. Budget Committee**

Section 1. Composition and Authority. The composition and authority of the Budget Committee shall be as set forth in the Articles of Agreement.

Section 2. Meetings.

a) Place of Meetings. The Budget Committee may hold meetings at any location within or without the OKI Region.

b) Regular Meetings. The Budget Committee shall hold a regular meeting on the second Thursday of January, February, March, April, May, June, July, August, September, October, November, and December unless waived by the order of the President or either Vice President.

c) Special Meetings. Special meetings shall be held upon the call of the President, either Vice-President, or any 3 members of the Budget Committee.

d) Quorum. The presence in persons of one-half ( $\frac{1}{2}$ ) of the members of the Budget Committee or their alternates duly selected as set forth in the Articles of Agreement (the "alternates") shall constitute a quorum. The members or alternates present at a duly organized meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough members or alternates to leave less than a quorum.

e) Voting. Each member, including voting ex-officio members, shall be entitled to one vote. The Budget Committee shall act by majority vote of those present at any duly called meeting at which a quorum was present.

f) Notice.

(1) To Members. There shall be no required notice for regular meetings of the Budget Committee, but for special meetings notice stating the time, place and purpose thereof, shall be given by personal delivery or by mail or, to the extent requested by members of the Budget Committee, by electronic mail transmission not less than two (2) days before the date of the meeting, provided that notice of any meeting may be waived in writing by any member before or after such meeting. Attendance by a member, whether in person or by an alternate, at a meeting shall constitute a waiver of notice of the meeting.

(2) To Others. A schedule of all regularly scheduled meetings of the Budget Committee shall be posted at such places as may be directed by the Executive Director, shall be included in a "web site" maintained by the Council, if any, and a copy shall be sent by mail or electronic mail transmission to any newspaper, radio station, television station or other member of the news media requesting such information. In the case of all special meetings of the Budget Committee, notice of such meetings shall be given to any member of the news media which has requested such notice in such a manner as to be received at least twenty-four hours in advance of any such special meeting; provided that if the special meeting is being called to deal with an emergency requiring immediate action, notice of the time, place and purpose of the meeting shall be given immediately to such members of the news media but need not be received by them at least twenty-four hours prior to the start of the meeting. A copy of the notices and agendas prepared for all regular and special meetings or a copy of the Council's newsletter giving substantially the same information shall be given by mail or electronic mail transmission at least two days prior to the date of the meeting to all persons requesting such information. At its election, the Budget Committee may require as a condition to such mailing or electronic mail transmission the payment of such persons on an annual basis, of a sum sufficient to offset cost of such mailings or transmissions. If such mailings or electronic mail transmissions are not practical under the circumstances, the same information shall be given by telephone or other method reasonably adequate to provide such information as early as possible.

Section 3. Vacancies. Any vacancy in the Budget Committee shall be filled for the unexpired term by the President. The person filling the vacancy shall meet the applicable requirements imposed by Article III, Paragraph D of the Articles of Agreement. Vacancies in alternates shall be filled by the President from those qualified persons nominated by the member who is without an alternate.

#### **Article IV. Other Committees**

Section 1. Formation and Authority. The Board of Directors and/or the Executive Committee may create such other committees as they shall deem appropriate, necessary, or

convenient and may delegate to such committees any of their powers, except the power to fill vacancies or alter the By-Laws. Such committees shall be subject to the control and direction of the Executive Committee and Board of Directors. The majority of the members of any such committee shall constitute a quorum unless other provisions for a quorum are provided for in the By-Laws and/or Constitution of said committee which have previously been approved by the Executive Committee. The act of the majority of the members of the committee present at the meeting at which a quorum is present shall be the act of the committee. The members present at a duly organized meeting may continue to do business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum.

Section 2.     Notice.

(a)     To Members. Meetings of any committee formed pursuant to Section 1 of this Article shall be held at such times and upon such notice to the members of the committee as may be agreed upon by the members of any such committee. A schedule of all regularly scheduled meetings of such committee shall be given by personal delivery or by mail or, to the extent requested by members of such committee, by electronic mail transmission not less than two (2) days before the date of the meeting, provided that notice of any meeting may be waived in writing by any member before or after such meeting. Attendance by a member, whether in person or by an alternate, at a meeting shall constitute a waiver of notice of the meeting.

(b)     To Others. A schedule of all regularly scheduled meetings of any committee formed pursuant to Section 1 of this Article shall be posted at such places as may be directed by the Executive Director, shall be included in a "web site" maintained by the Council, if any, and a copy shall be sent by mail or electronic mail transmission to any newspaper, radio station, television station or other member of the news media requesting such information. In the case of all special meetings of any such committee, notice shall be posted at such places as may be directed by the Executive Director, shall be included in a "web site" maintained by the Council, if any, and a copy shall be sent by mail or electronic mail transmission to any newspaper, radio station, television station or other member of the news media requesting such information. In the case of all special meetings of such committee, notice of such meetings shall be given to any member of the news media which has requested such notice in such a manner as to be received at least twenty-four hours in advance of any such special meeting; provided that if the special meeting is being called to deal with an emergency requiring immediate action, notice of the time, place and purpose of the meeting shall be given immediately to such members of the news media but need not be received by them at least twenty-four hours prior to the start of the meeting. A copy of the notices and agendas prepared for all regular and special meetings or a copy of the Council's newsletter giving substantially the same information shall be given by mail or electronic mail transmission at least two days prior to the date of the meeting to all persons requesting such information. At its election, such committee may require as a condition to such mailing or electronic mail transmission the payment of such persons on an annual basis, of a sum sufficient to offset cost of such mailings or transmissions. If such mailings or electronic mail transmissions are not practical under the circumstances, the same information shall be given



by telephone or other method reasonably adequate to provide such information as early as possible.

#### **Article V. Personnel**

Section 1. Officers. The Officers of the Council shall be those named or appointed as provided in the Articles of Agreement. Any person may hold more than one office. The President, First Vice-President and Second Vice-President shall be Directors. No other officer need be a Director.

Section 2. Executive Director. The Executive Director shall be the chief administrator of the Council and shall be selected by the Board of Directors or by the Executive Committee, and shall have such authority as set forth in Articles of Agreement.

Section 3. Chief Fiscal Officer. The Executive Director shall designate one of the employees of the Council to serve as Chief Fiscal Officer of the Council who shall supervise the receipt, deposit, investment, and disbursement of the funds of the council in a manner authorized by the Executive Committee. The Chief Fiscal Office shall furnish, when requested, to the Board of Directors, the Executive Committee, the Budget Committee and such other committees as the Executive Committee shall designate, statements and reports relating to the financial affairs of the Council.

#### **Article VI. Amendments**

The power to alter, amend, or repeal the By-Laws or to adopt new By-Laws is vested in the Executive Committee, which may alter, amend, or repeal the By-Laws or to adopt new By-Laws by the affirmative action of at least one-half of its members. The By-Laws may contain any provision for the regulation and management of the affairs of the Council which is not in conflict with any express provision of the Articles of Agreement.

#### **Article VII. Seal**

The Executive Committee shall have the power to adopt an official seal of the Council, containing such words as deemed appropriate. Failure to affix any seal shall not affect the validity of any instrument duly executed on behalf of the Council by its officers.

#### **Article VIII. Consultants, Supplies and Facilities**

The Executive Director may contract for the service of such consultants and experts and may purchase or lease or otherwise provide for such supplies, materials, equipment, and facilities he deems necessary and appropriate in the following manner and under the following procedures:

## Section 1. Consultants

a) The Executive Director will solicit proposals from three or more consultants when seeking assistance in the fields of professional planning, engineering, or similar services. Except as otherwise required by applicable law or the Executive Director, such proposals must contain the price, scope of work, and qualifications of the submitting firm.

b) Selection of a consultant will be based on an evaluation of the proposals submitted in their entirety, and not necessarily on cost alone.

c) Solicitation of price proposals is not required for such professional services when the total cost involved does not exceed \$30,000.00.

## Section 2. Experts

a) The Executive Director may engage experts in the fields of accounting, management, computer, law, and other fields to assist in carrying out the purposes and programs of the Council.

b) The Executive Director shall report the engagement of any such expert to the Executive Committee upon such engagement and annually thereafter.

c) When the services of an expert exceed \$30,000.00, the Executive Director will obtain Executive Committee approval prior to the engagement of the services of the expert as set forth in Section 4.

Section 3. Supplies, Materials, Equipment and Facilities. The purchase or lease of supplies or facilities shall be on the basis of sealed competitive bids where the sum involved exceeds \$30,000.00 except under the following circumstances:

a) Where there is only one source of supplies, materials, equipment or facilities within constraints of time and ability to perform the work satisfactorily.

b) Where the supplies, materials, equipment or facilities are of such a nature that a manufacturer's proprietary interest is involved and no acceptable substitute is available.

c) When, in the opinion of staff, it is in the best interest of the Council to negotiate the procurement of such supplies, services, materials, equipment or facilities, the method of procurement will be by competitive negotiation. When such procurement exceeds \$30,000.00 the procurement will require approval as set forth in Section 4.

In any of the above enumerated cases, supplies, materials, equipment or facilities may be purchased or leased without obtaining sealed competitive bids.

Section 4. Prior Approval. Any contract, purchase order, or other single instrument which obligates the Council in excess of \$30,000.00 shall have the prior approval of the Executive Committee before execution by the Executive Director.

#### **Article IX. Employee Retirement Plan - Social Security**

The Executive Committee is hereby authorized to establish a retirement plan for employees which plan shall be in writing and be qualified under Section 401 of the Internal Revenue Code of 1954. Any such retirement plan shall provide for contributions by the Council and may condition participation by an employee of his/her contributing to the plan. The Executive Committee shall establish a trust for the funding of any such retirement plan and shall appoint a private banking institution or any other organization qualified by the Internal Revenue Service to serve as a Director or custodian of a Section 401 plan to serve as Director or custodian of such retirement plan.

Administration of any such retirement plan shall be vested in a Retirement Plan Administrative Committee. This committee shall consist of the President, Treasurer, Executive Director, and Fiscal Officer of the Council and two full-time employees of the Council. The employee committee members shall be elected by secret ballot of all retirement plan participants and shall serve for a term of one year. The Executive Director shall designate the time of and conduct the election of employee committee members.

Subject to the approval of the Secretary of Health and Human Services (formerly Secretary of Health, Education and Welfare), the Executive Committee is authorized to cause the Council to enter into an agreement with the Secretary providing for coverage of the Council's employees under the Social Security system. This coverage shall supplement any retirement plan adopted pursuant to the foregoing paragraphs.

***Originals on file at the OKI offices***

Amended: 01/24/74  
Amended: 11/14/74  
Amended: 01/09/75  
Amended: 01/08/76  
Amended: 07/13/78  
Amended: 01/14/82  
Amended: 12/08/83  
Amended: 10/11/90  
Amended: 03/12/92  
Amended: 08/13/92  
Amended: 02/11/93  
Amended: 12/08/94  
Amended: 09/10/98  
Amended: 11/9/06 – effective 12-15-06

# INTERMODAL COORDINATING COMMITTEE

## BY-LAWS

### FUNCTIONS, DUTIES, AND RESPONSIBILITIES FOR THE INTERMODAL COORDINATING COMMITTEE OF THE OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS (HEREIN REFERRED TO AS "THE COUNCIL")

#### ARTICLE I – AUTHORITY AND PURPOSE

Section 1      Authority

Article III C, of the Articles of Incorporation of the Council, establishes an Executive Committee.

Article III of the Council By-Laws specifically grants the Board of Directors and/or the Executive Committee to establish such other committees which they deem appropriate, necessary or convenient and may delegate to such committees any of their powers except to fill vacancies or alter By-Laws."

Section 2      Name of Committee

The name of this committee shall be the Intermodal Coordinating Committee of the Ohio-Kentucky-Indiana Regional Council of Governments (Herein referred to as the "ICC").

Section 3      Purpose

The purpose of the ICC is to provide technical advice and assistance to the Technical Studies Director and staff in such areas as, but not limited to, regional planning, land use, transportation, air quality, traffic engineering, open space, and any special purpose projects, as well as preparing recommendations to the Executive Committee and Board of Directors of the Council in these areas.

Section 4      Function

The ICC is to guide the technical aspects of the council through the Executive Committee and Board of Directors.

Section 5      Membership

All members of the ICC will be selected yearly based on recommendations from the ICC, prior to the June ICC meeting, by the president of the council. The ICC is an advisory committee, and as such, members are not required to be a member of the Board of Directors of the Council.

Participating agencies shall be entitled to representation as outlined in Article III. The President of the Council may appoint such other members whose broad technical knowledge and experience in transportation planning, regional planning, and/or related fields, should be made available. The ICC itself may recommend additional members to the president of the Council. It is the responsibility of the

participating agency to notify the president of the council if any change in agency representation is recommended and to nominate representatives to be selected by the president of the council.

Section 6      Duties and Responsibilities

1. Provide general technical advice for the Executive Committee and Board of Directors as required.
2. Review and comment on technical issues associated with the various studies and recommended plans before submission to the Executive Committee or Board of Directors.
3. Advise and assist the Technical Studies Director and staff in obtaining data required for continuing transportation planning commensurate with the Unified Planning Work Program, and other agreements for all areas of planning.

Section 7      Voting

Members duly selected by the President of the Council under Article I, Section 5 and of good standing shall be the only members to vote on issues brought before the ICC. Pre-approved designated alternates may vote in the absence of the member.

In months when the ICC does not meet, the Chair may request an electronic vote on TIP administrative modifications. Administrative modifications are approved by the ICC and do not require approval by the OKI Executive Committee/Board of Directors. ICC members in good standing will be notified by e-mail at least one week prior to the vote when electronic votes are requested. A simple majority of at least as many required for a quorum for normal monthly meetings (see Article V, Section 3) will be required for passage.

Section 8      Member of Good Standing

A member will be considered of “good standing” if attending regular meetings at least once per calendar quarter.

Section 9      Alternates

Each member may designate one alternate to represent them. Alternates may only represent the member for which they are designated.

## ARTICLE II – ORGANIZATION

Section 1      Officers

The officers shall consist of Chair, First Vice-Chair, Second Vice-Chair and Secretary.

Section 2      Election of Officers

Officers shall be elected annually by the membership of the ICC at the June meeting. Vacancies in offices shall be filled for the un-expired term in the same manner.

Section 3      Terms of Office

Elected Officers shall be elected for a one (1) year term to begin July 1<sup>st</sup> of each year, and end June 30<sup>th</sup> the following year. No officer shall serve more than two (2) consecutive terms in any one office.

Section 4      Duties of Officers

1. Chair – to preside at all meetings of the ICC and to call special meetings as needed. The Chair shall represent the ICC at Executive Committee and Board of Directors meetings.
2. First Vice-Chair – To perform the duties of the Chair in his/her absence.
3. In the absence of the Chair and First Vice-Chair, the Second Vice-Chair shall act as Chair.
4. Secretary – To record the minutes and attendance, prepare required reports; notify members of meetings, and such other duties as required or directed by the committee. Notice of meetings shall be mailed at least one week in advance of meeting date. (The Secretary will be appointed from the Council Staff by the Executive Director of the Council and shall be a non-voting member).

Section 5      Parliamentary Authority

The Rules contained in the current edition of Roberts Rules of Order shall govern the ICC in all cases to which they are applicable and in which they are not inconsistent with these By-Laws and any special rules of order the ICC may adopt.

ARTICLE III – MEMBERSHIP

Section 1      Membership

Membership in the ICC shall be comprised of representatives from the qualifying agencies. Nominations will be accepted for members and one alternate from the following:

<u>Membership Designation</u>	<u>Number of Members</u>
At-large	5
Aviation (1 each, Cincinnati, Butler, NKY)	3
Bike/Pedestrian	1
Chamber of Commerce	1
Cities over 100K population (3 each)	3
OH Cities over 40K population (2 each)	6
KY Cities over 40K population (2 each)	2
County Engineer/Road Mgr. (1 ea. County)	8
County Planning (1 ea. County + NKADD)	9
DOT (ODOT-2, KYTC-2 INDOT-1)	5
EJ Representative	1
Environmental	3
FHWA (1 each state)	3
Freight	1
IN City under 40K population	1
KY City under 40K population	3

OH City Under 40K population	6
Port Authority	1
TID (1 each Ohio County)	4
Townships over 40K population (1 each)	7
Transit (1 each system)	<u>6</u>
Grand Total	79

#### ARTICLE IV – SPECIAL COMMITTEES/SUBCOMMITTEES

- Section 1     Special committee/subcommittee formation  
Special committees or subcommittees shall be formed when necessary to provide supplemental technical personnel and advice on various phases of the planning process.
- Section 2     Special committee/subcommittee members and chairperson  
Chair and members of special committees/subcommittees shall be appointed by the Chair of the ICC.

#### ARTICLE V – MEETINGS

- Section 1     ICC Meetings  
The ICC shall hold regular meetings on Tuesday preceding the second Thursday of each month at 9:30 a.m. in the OKI Board Room or at such other time as agreed upon. Notice of a change in meeting shall be mailed or emailed to ICC members at least one week in advance of the meeting date.
- Section 2     Special Committee/Subcommittee Meetings  
Special committees/subcommittees shall meet as determined by the chairperson of said committee.
- Section 3     Quorum  
Fifteen (15) members of the ICC shall constitute a quorum for a regular meeting. Fifteen (15) or one-third of the membership of special committees/subcommittees whichever is lower, shall constitute a quorum for a special meeting. The act of the majority of the members of the ICC present at the meeting at which a quorum is present shall be the act of the ICC.

#### ARTICLE VI – AMENDMENT OF ARTICLE

- Section 1     How Amended  
These articles may be amended by a majority vote of the Executive Committee/Board of Directors approving the recommendation of the ICC.

Approved: 09/11/03  
Updated: 12/2006  
Amended: 05/08/2008



Amended: 06/10/2010  
Amended: 03/10/2011  
Updated: 01/31/2013  
Amended: 10/10/2013  
Amended: 06/09/2022

## **Community Advisory Committee**

### **Responsibilities**

OKI seeks public participation as a means of developing effective solutions that can be implemented to address regional issues and needs. To develop solutions that account for the region's diversity, OKI seeks participation from a broad expanse of its geographic region, as well as the many sectors of its population. Our Participation Plan is designed to achieve these objectives and to comply with Title VI, ensuring federal funds are used fairly and without discrimination.

OKI seeks to reach all people and populations, with attention to ensure the elderly, low income, disabled, and zero car populations are reached and represented.

### **Community Advisory Committee's role for OKI**

Committee members review, score and rank every application requesting funding. This is to evaluate the overall net benefit of all programs, policies, and activities on populations and communities in OKI's eight-county region.

The Committee helps ensure participation from and to address the needs of populations and communities in the region.

As OKI identifies the need for public involvement or education in various populations and communities, the Committee will advise on audiences to be reached and methods to reach them.

The Committee will assist in coordination with communities or organizations to reach select populations.

If public involvement is needed from select populations for a localized community or population, like a corridor study, the Committee will assist in developing collaborations with public and private organizations that represent or serve these select populations.

To complete these tasks, the Community Advisory Committee will:

1. Meet on an as needed basis
2. Be asked for comment individually or as a group on the Long Range Transportation Plan and Transportation Improvement Program
3. Be available to give advice and consultation on Corridor plans or findings, special reports or findings, mitigation reports or findings
4. Work with the OKI Tristate Transportation Equitable Opportunity Team (TTEOT), as desired or needed
5. Review various MPO tools and maps to ensure select populations and communities are properly identified

-END

## **AGREEMENTS**

The following pages contain copies of these formal planning agreements (completed or in process):

- Federal Certification Review
- Ohio Department of Transportation
- Kentucky Transportation Cabinet
- Indiana Department of Transportation
- Conformity SIP Memorandum of Agreement
- Southwest Ohio Regional Transit Authority (SORTA)
- City of Cincinnati Streetcar
- Butler County Regional Transit Authority
- Clermont County Board of Commissioners/Clermont Transportation Connection
- Middletown Transit Service
- Warren County Transit
- Transit Authority of Northern Kentucky (TANK)



U.S. Department  
of Transportation

Federal Transit Administration  
Region V  
200 West Adams St., Suite 320  
Chicago, IL 60606-5253  
312-353-2789  
312-886-0351 (fax)

Federal Highway Administration  
OH Division  
200 North High St., Room 328  
Columbus, OH 43215

David L. Painter, President  
Board of Directors  
Ohio-Kentucky-Indiana Regional Council of Governments  
720 E. Pete Rose Way, Suite 420 Cincinnati, Ohio

Dear Mr. Painter:

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have completed a Certification Review of the transportation planning process carried out by the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) for the Cincinnati, Ohio Transportation Management Area (TMA). We appreciate the hospitality shown to our review team by OKI and the commitment to providing an exemplary transportation planning process in the Cincinnati region.

The review was performed in accordance with 23 U.S.C. 134 requiring a review of the transportation planning process for all metropolitan areas with a population of 200,000 or greater. The objective of the Certification Review was to determine whether the transportation planning process meets the Federal transportation planning requirements outlined in 23 CFR 450.300.

The review team found that the transportation planning process carried out by OKI for the Cincinnati region meets the federal transportation planning requirements. Therefore, FTA and FHWA jointly certify the planning process. The enclosed report documents the results of the review. This report includes ten commendations and two recommendations for enhancing the regional transportation planning process.

A representative of the review team would like to present the primary results of this report at an upcoming Board of Directors meeting. Arrangements will be made with your staff. In the meantime, please contact Mr. Frank Burkett of FHWA at (614) 280-6838 or Mr. Stewart McKenzie of FTA at (312) 353-2866 if you have any questions regarding this certification action.

**KELLEY  
BROOKINS**  
Kelley Brookins

Digitally signed by  
KELLEY BROOKINS  
Date: 2021.02.02  
13:24:36 -06'00'

Regional Administrator  
Federal Transit Administration

Sincerely,

**LAURA S  
LEFFLER**

Laura S. Leffler

Digitally signed by LAURA  
S LEFFLER  
Date: 2021.02.03 10:19:44  
-05'00'

Division Administrator  
Federal Highway Administration



U.S. Department  
of Transportation

Federal Highway  
Administration

Federal Transit  
Administration

# Transportation Management Area Planning Certification Review

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## **Certification Review of the Metropolitan Transportation Planning Process for the Cincinnati, Ohio Transportation Management Area (OKI)**

**February, 2021**

**Summary Report**





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## 1.0 EXECUTIVE SUMMARY

On November 18 and 19, 2020 the certification review of the transportation planning process was conducted for the Cincinnati, Ohio Transportation Management Area (TMA) carried out by the Ohio-Kentucky-Indiana Regional Council of Governments (OKI), the Metropolitan Planning Organization (MPO) for the Cincinnati, Ohio region. The Federal Review Team (Review Team) consisted of representatives from the Federal Transit Administration (FTA) Region V, and the Federal Highway Administration (FHWA) Ohio, Kentucky, and Indiana Divisions.

Based on this certification review, the OKI transportation planning process was found to be in substantial compliance with the requirements of the metropolitan planning regulations per 23 CFR 450. As such, the Review Team certifies the planning process for the Cincinnati, Ohio TMA.

This report documents the certification review process and indicates two recommendations to enhance the overall transportation planning process.

### 1.1 Previous Findings and Disposition

The prior certification review for the Cincinnati urbanized area was conducted in 2017. The 2017 Certification Review findings included a single recommendation as follows.

#### **2017 Recommendation**

*To eliminate possible public confusion, OKI is encouraged to include the annual Indiana FTA apportionment in applicable OKI documents.*

#### **Resolution**

This recommendation has been resolved. OKI responded to the recommendation by including the annual Indiana FTA apportionment in applicable OKI documents as they were updated.

#### **Status**

*OKI has successfully addressed the recommendation from the 2017 review.*



## **1.2 Summary of Current Findings**

The current review found that the metropolitan transportation planning process conducted in the Cincinnati area meets Federal planning requirements. As a result of this review, FHWA and FTA are certifying the transportation planning process conducted by The Ohio Department of Transportation (ODOT), The Kentucky Transportation Cabinet (KYTC) The Indiana Department of Transportation (INDOT), OKI and the regional transit authorities subject to the recommendations in this report. The following sections of this report contain a discussion of the documents reviewed, the issues discussed, and the recommendations made for enhancing the process where appropriate

## **2.0 INTRODUCTION**

### **2.1 Background**

Pursuant to 23 U.S.C. 134(k) and 49 U.S.C. 5303(k), the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) must jointly certify the metropolitan transportation planning process in Transportation Management Areas (TMAs) at least every four years. A TMA is an urbanized area, as defined by the U.S. Census Bureau, with a population of over 200,000. After the 2010 Census, the Secretary of Transportation designated 183 TMAs – 179 urbanized areas over 200,000 in population plus four urbanized areas that received special designation. In general, the reviews consist of three primary activities: a site visit, a review of planning products (in advance of and during the site visit), and preparation of a Certification Review Report that summarizes the review and offers findings. The reviews focus on compliance with Federal regulations, challenges, successes, and experiences of the cooperative relationship between the MPO(s), the State DOT(s), and public transportation operator(s) in the conduct of the metropolitan transportation planning process. Joint FTA/FHWA Certification Review guidelines provide agency field reviewers with latitude and flexibility to tailor the review to reflect regional issues and needs. As a consequence, the scope and depth of the Certification Review reports will vary significantly.

The Certification Review process is only one of several methods used to assess the quality of a regional metropolitan transportation planning process, compliance with applicable statutes and regulations, and the level and type of technical assistance needed to enhance the effectiveness of the planning process. Other activities provide opportunities for this type of review and comment, including Unified Planning Work Program (UPWP) approval, the Metropolitan Transportation Plan (MTP), metropolitan and statewide Transportation Improvement Program (TIP) findings, air-quality (AQ) conformity determinations (in nonattainment and maintenance areas), as well as a range of other formal and less formal contact provide both FHWA/FTA an



opportunity to comment on the planning process. The results of these other processes are considered in the Certification Review process.

While the Certification Review report itself may not fully document those many intermediate and ongoing checkpoints, the “findings” of Certification Review are, in fact, based upon the cumulative findings of the entire review effort.

The review process is individually tailored to focus on topics of significance in each metropolitan planning area. Federal reviewers prepare Certification Reports to document the results of the review process. The reports and final actions are the joint responsibility of the appropriate FHWA and FTA field offices, and their content will vary to reflect the planning process reviewed, whether or not they relate explicitly to formal “findings” of the review.

To encourage public understanding and input, FHWA/FTA will continue to improve the clarity of the Certification Review reports.

## **2.2 Purpose and Objective**

Since the enactment of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the FHWA and FTA, are required to jointly review and evaluate the transportation planning process in all urbanized areas over 200,000 population to determine if the process meets the Federal planning requirements in 23 U.S.C. 134, 40 U.S.C. 5303, and 23 CFR 450. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), extended the minimum allowable frequency of certification reviews to at least every four years.

OKI is the designated MPO for the Cincinnati urbanized area. ODOT is the responsible State agency and SORTA, TANK, BCRTA, MTS, CTC, WCTS, plus the City of Cincinnati are the responsible public transportation operators. Current membership of the OKI MPO consists of elected officials and citizens from the political jurisdictions in the Cincinnati region. The study area includes all of Hamilton, Butler, Warren, Clermont counties in Ohio, Boone, Campbell, Kenton counties in Kentucky and Dearborn County Indiana; with the City of Cincinnati as the largest population center.

Certification of the planning process is a prerequisite to the approval of Federal funding for transportation projects in such areas. The certification review is also an opportunity to provide assistance on new programs and to enhance the ability of the metropolitan transportation planning process to provide decision makers with the knowledge they need to make well-informed capital and operating investment decisions.



## 3.0 SCOPE AND METHODOLOGY

### 3.1 Review Process

A desk review was conducted by FHWA and FTA on September 30, 2020 in preparation for the site visit. In addition to the formal review, routine oversight mechanisms provide a major source of information upon which to base the certification findings. The following individuals on the Federal Review Team (Review Team) participated in the desk review:

#### **Federal Transit Administration-Region V Office**

Stewart McKenzie – Community Planner

#### **Federal Highway Administration**

Frank Burkett – Senior Planning Specialist, Ohio Division

Bernadette Dupont – Transportation Specialist, Kentucky Division

Erica Tait – Planning and Environmental Specialist, Indiana Division

Rachyl Smith – Civil Rights Specialist, Ohio Division

Velyjha Southern – Community Planner, Professional Development Program

The certification review covers the transportation planning process conducted cooperatively by the MPO, State, and public transportation operators. Background information, current status, key findings, and recommendations are summarized in the body of the report for the following subject areas selected by FHWA and FTA staff for on-site review:

- Status of the Recommendations from the Previous Review
- MPO Organizational Structure and Committees
- Status of MPO Agreements
- Performance Based Planning and Programming
- Freight Planning
- Travel Demand Model
- Transit Planning
- Transportation Improvement Program
- Long Range Transportation Plan
- Unified Planning Work Program
- ITS Architecture
- Congestion Management Process



- Climate Change/Resiliency, and Air Quality
- Annual Listing of Obligated Projects
- Civil Rights and Environmental Justice
- Public Involvement

## **3.2 Documents Reviewed**

The following MPO documents were evaluated as part of this planning process review:

- ODOT/MPO Agreement, 2020
- FY 2020 and FY 2021 Unified Planning Work Program for the Cincinnati MPO
- MPO MTP, 2050
- MPO FY 2021-2024 TIP and Self-Certification
- FY2020 Annual List of Obligated Projects



## 4.0 PROGRAM REVIEW

### 4.1 Agreements and Contracts

**4.1.1 Regulatory Basis:** 23 CFR 450.314(a) *The MPO, the State(s), and the public transportation operator(s) shall cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process. These responsibilities shall be clearly identified in written agreements among the MPO, the State(s), and the public transportation operator(s) serving the MPA. To the extent possible, a single agreement between all responsible parties should be developed. The written agreement(s) shall include specific provisions for cooperatively developing and sharing information related to the development of financial plans that support the metropolitan transportation plan (see § 450.322) and the metropolitan TIP (see § 450.324) and development of the annual listing of obligated projects (see § 450.332).*

**4.1.2 Status:** OKI operates under a variety of agreements with the three states in its region documenting the responsibilities of all agencies to carry out the 3-C transportation planning process. The agreement with the Ohio Department of Transportation and the public transportation operators is dated March, 2018. The agreement with the Kentucky Transportation Cabinet and the public transportation operator is dated May, 2018. The agreement with the Indiana Department of Transportation and FHWA-IN was recently updated in October 2020.

**4.1.3 Finding:** In January 2020, the City of Cincinnati (the City) became the sole operator of the Cincinnati Bell Connector (Streetcar) terminating its agreement with the Southwest Ohio Regional Transit Authority (SORTA) to maintain and operate the streetcar service. In May 2020, the City became a direct recipient of FTA Section 5307 formula funding for the Cincinnati Urbanized Area.

**4.1.4 Recommendation:** It is recommended that OKI update its planning agreement(s) with Ohio public transportation agencies to include the City of Cincinnati as a public transportation operator.



## 4.2 TRANSPORTATION IMPROVEMENT PROGRAM AND ANNUAL LISTING OF OBLIGATED PROJECTS

**4.2.1 Regulatory Basis:** 23 U.S.C. 134(c),(h) & (j) set forth requirements for the MPO to cooperatively develop a Transportation Improvement Program (TIP) and corresponding Annual Listing of Obligated Projects (ALOP). Under 23 CFR 450.326, the TIP must cover at least a four-year horizon and be updated at least every four years. Surface transportation projects funded under Title 23 U.S.C. or Title 49 U.S.C., except as noted in the regulations, and are required to be included in the TIP, and must be consistent with the adopted Metropolitan Transportation Plan (MTP). Project details must include the project description, cost, funding source, and identification of the agency responsible for carrying out each project. The TIP must be fiscally constrained, and the MPO must provide all interested parties with a reasonable opportunity to comment on the proposed TIP. Per 23 CFR 450.326 (d), the Transportation Improvement Program (TIP) shall include, to the maximum extent possible, a description of the anticipated effect of the TIP toward achieving the performance targets identified in the MTP, linking investment priorities to those performance targets.

Under 23 CFR 450.334, the ALOP must be developed annually, in cooperation with the State and public transportation operator(s), no later than 90 calendar days following the end of the program year. The ALOP must include a listing of projects, including investments in pedestrian walkways and bicycle transportation facilities) for which funds under Title 23 U.S.C. or Title 49 U.S.C. were obligated in the preceding program year. The listing of projects must provide sufficient descriptive information to identify the project or phase including (at a minimum) the following for each project: a) the amount of funds requested in the TIP; b) federal funding obligated in the preceding year; c) federal funding remaining and available for obligation in subsequent years; d) sufficient description to identify the project; e) identification of the agencies responsible for carrying out the project.

**4.2.2 Status:** The OKI FY2021-2024 TIP documents how Federal, State, and local funds will be expended on highway and public transportation improvements and contains all federally funded and regionally significant projects. The TIP includes State and local roadway, bridge, bicycle, pedestrian, safety and transit projects. OKI coordinated the fiscally constrained, multi-modal TIP through a comprehensive, continuing and cooperative effort with FHWA, FTA, ODOT, KYTC, INDOT, LPAs, public transit operators, the public, and other interested parties. ODOT, KYTC, and INDOT submit to OKI a list of proposed projects on the state-maintained facilities in the region. The states' projects are prioritized and selected through their respective statewide transportation planning processes. OKI also coordinates with transit operators in the region to include transit projects in the TIP. Going forward, the respective DOTs should provide OKI with the information needed to list the estimated project cost for all projects listed in the TIP in accordance with 23 CFR 450.326 (g) (2).

OKI used their extensive project selection/scoring criteria to guide the development of the current adopted TIP, and to provide the public and other interested parties, including the



organization's environmental justice committee, with opportunities to review and comment on the proposed program of projects. The projects submitted for inclusion in the TIP and funded with a predetermined sub allocation of Surface Transportation Block Grant Program funding, are evaluated and prioritized using scoring criteria that incorporates the national planning factors, performance measures and targets, regional goals outlined in the 2050 Metropolitan Transportation Plan, environmental justice considerations, air quality, and the regional strategic policy plan.

In accordance with regulatory requirements for performance measures and management, OKI has coordinated with the respective DOTs and transit agencies and has documented the required performance measures (i.e. safety, bridge and pavement condition, travel time reliability, air quality, and transit asset management) in the FY2021-2024 TIP, as well as the 2050 MTP. In addition, the MPO has specifically outlined the anticipated effect of the projects included in the TIP toward achieving the performance targets identified in the MTP, linking investment priorities to those performance targets.

In accordance with the procedures outlined in the Participation Plan, and in alignment with local directives, OKI used web-based tools to solicit and collect feedback from members of the public and stakeholders. Comments received were reviewed and documented by OKI staff, and made available as an Appendix to the FY2021-2024 TIP.

OKI's most recent ALOP has been developed in accordance with the requirements outlined above. However, there are some instances, specifically with regard to DOT and transit projects, where the minimum required descriptive information is not provided. The DOTs and transit providers should coordinate with OKI to ensure that the necessary project description information is reflected in future ALOPs.

**4.2.3 Findings:** The FHWA/FTA Federal Review Team finds that the OKI TIP and ALOP meet the requirements of 23 U.S.C. 134(c), (h) & (j), 23 CFR 450.326, and 23 CFR 450.334.

#### **4.2.4 Commendations:**

**Commendation 1:** The MPO has developed a robust project prioritization process that incorporates regional strategic goals and priorities, performance measures and targets, environmental justice considerations, multimodal initiatives, as well as local comprehensive plans. The effective integration of system performance requirements and strategic regional plans and priorities is commendable and may be used as a best practice for other TMA areas.

**Commendation 2:** The MPO has thoroughly integrated PBPP into the TIP and MTP, effectively identifying and documenting how projects and priorities in the region are anticipated to affect the selected performance targets for all three of the DOTs associated with OKI. OKI's approach to PBPP integration and documentation commendably links investments in the region with system performance.





## 4.3 Metropolitan Transportation Plan

**4.3.1 Regulatory Basis:** 23 CFR 450.324(a) states, “The metropolitan transportation planning process shall include the development of a transportation plan addressing no less than a 20-year planning horizon as of the effective date.” .... 23 CFR 450.324(f)(11)(ii) states “...the MPO(s), public transportation operator(s), and State shall cooperatively develop estimates of funds that will be available to support metropolitan transportation plan implementation, as required under § 450.314(a). 23 CFR 450.324(f)(11)(iii) states... “The financial plan shall include recommendations on any additional financing strategies to fund projects and programs included in the metropolitan transportation plan. In the case of new funding sources, strategies for ensuring their availability shall be identified. The financial plan may include an assessment of the appropriateness of innovative finance techniques (for example, tolling, pricing, bonding, public private partnerships, or other strategies) as revenue sources for projects in the plan.”

**4.3.2 Status:** The OKI 2050 Metropolitan Transportation Plan (the MTP) was adopted on June 11, 2020. The COVID-19 pandemic created challenges to having in-person meetings, review and feedback on the MTP prior to its adoption.

The “Vision” component of the MTP is a non-traditional look at the Region’s transportation network over the next 30 years with the integration of Connected and Autonomous Vehicles (CAV). Along with more traditional multi-modal investments prescribed by the fiscally constrained plan, OKI determines that CAV technology will have substantial reduction in vehicle miles traveled and personal trips generated. The combination of investments would ultimately help the Region achieve MTP goals based on the 11 planning factors.

The Future Transit Vision Plan consists of light rail lines and is supplemental to the fiscally constrained portion of the MTP. In responding to public comments on the MTP, the MPO referenced its prioritization process for project selection noting that roughly 400 projects were initially proposed. For transit, projects were based on submission from the transit operators. Those reviewing the 2050 MTP online may benefit from additional links that can quickly take the reader to respective studies and plans, notably SORTA’s Reinventing Metro Plan, which places a priority on Bus Rapid Transit (BRT) projects over a light rail network.

Future iterations of the Plan would benefit if OKI were to take additional steps to gauge the public’s understanding of the Vision and the fiscally constrained portions of the MTP and assess public buy-in. This could be done by going into greater detail as to how and when recommended projects will be funded and broadening the financial discussion to document the estimated funding necessary to implement projects that were commonly desired, yet not selected due to funding constraints. For transit investments, the MPO should demonstrate, by reference, how the projects put forth by the transit operators are consistent with their respective transit development/investment plans which (hopefully) are a product of their public engagement process as well. OKI could also reference portions of the MTP that were influenced by input received from the public. Having placed the comments received on the



2050 MTP website along with OKI's response, is a good practice.

**4.3.3 Finding:** The OKI 2050 Metropolitan Transportation Plan is compliant with 23 CFR 324.

## 4.4 Intelligent Transportation Systems (ITS) Architecture

**4.4.1 Regulatory Basis:** The FHWA Final Rule and FTA Policy on Intelligent Transportation Systems (TS) Architecture and Standards, issued on January 8, 2001 and codified under 23 CFR Part 940, implements Section 5206 (e) of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21). This Final rule Policy requires that all ITS projects funded by the Highway Trust Fund and the Mass Transit Account conform to the national ITS architecture, as well as to USDOT adopted ITS standards.

23 CFR part 940 states that:

- At the issuance date (January 8, 2001) of the Final Rule Policy, regions and MPOs implementing ITS projects that have not advance to final design by April 8, 2005, must have regional ITS architecture in place. All other regions and MPOs not currently implementing ITS projects must develop regional ITS architecture within four years from the date of their first ITS project advance to final design.
- All ITS projects funded by the Highway Trust Fund (including the Mass Transit Account), whether they are stand-alone projects or combined with non-ITS projects, must be consistent with the provisions laid out in 23 CFR part 940.
- Major ITS projects should move forward based on a project-level architecture that clearly reflects consistency with the national ITS architecture.
- All projects shall be developed using a systems engineering process.
- Projects must use USDOT adopted ITS standards as appropriate.
- Compliance with the regional ITS architecture will be in accordance with USDOT oversight and Federal-aid procedures, similar to non-ITS projects.

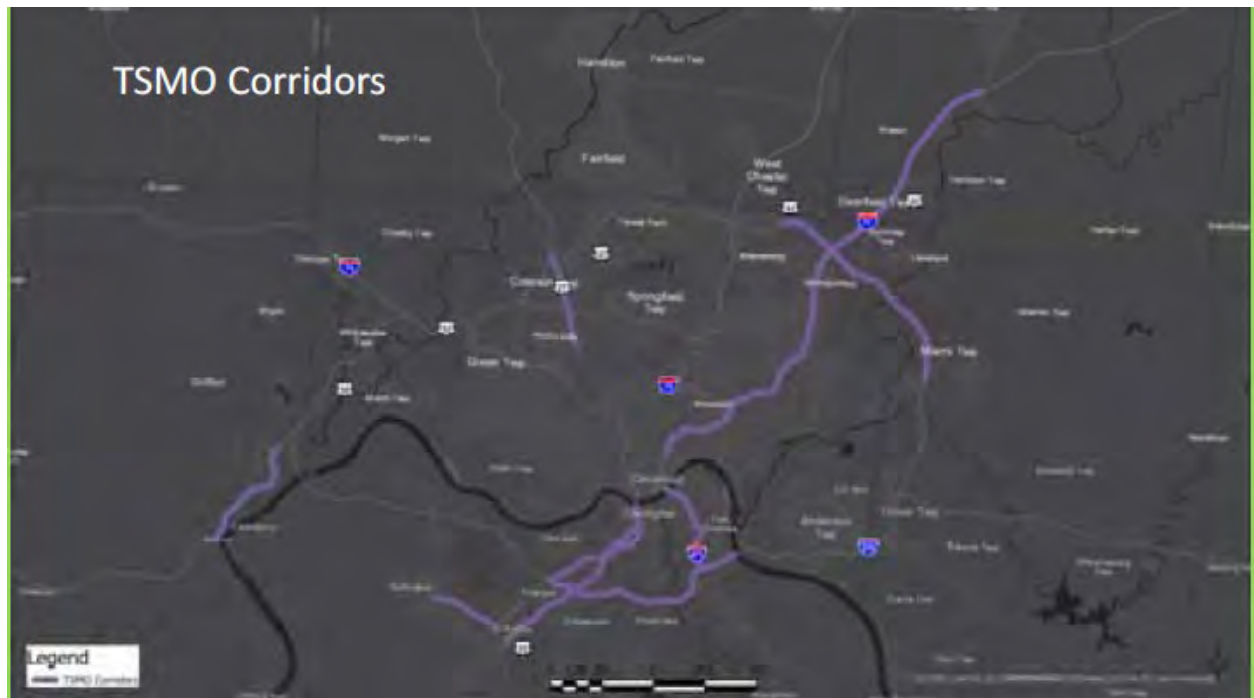
**4.4.2 Current Status:** The MPO has a regional ITS architecture that was last updated in 2016 as has served as a roadmap for transportation systems integration. It was developed through a series of stakeholder meetings and an ITS workshop. It covers all surface transportation modes in the MPA.

The MPO plans to update the ITS Architecture in-house using Regional Architecture Development for Intelligent Transportation (RAD-IT) 9.0 and the associated strategic plan. In preparation for the update, the MPO participated in the recent ITS Architecture training hosted



by KYTC and FHWA-KY (December 2020). The new ITS architecture will cover approximately the next 10 years. The strategic plan will align with the MTP and will go out to 2050. The update will incorporate Connected Vehicle (CV) technologies and Electric Vehicle (EV) technologies.

The MPO has identified ten Transportation Systems Management and Operations (TSMO) corridors that use technology identified in the ITS Architecture. Currently TSMO applications are covered in general terms, but as more detailed project analysis occurs, more specific corridor elements will be added. For example, the current Active Traffic Demand Management (ATDM) project in Northern Kentucky that will cover the urbanized areas of I-71, I-75 (from the river to the split in Boone County) and I-471, and all I-275.



**4.4.3 Findings:** The MPO is in compliance with federal regulations.

**4.4.4 Commendation:** The MPO has identified ten TSMO corridors and plans to expand the ITS architecture to include more ITS applications in the ITS architecture.



## 4.5 AIR QUALITY

**4.5.1 Regulatory Basis:** Section 176 (c)(1) of the Clean Air Act Amendments of 1990 (CAAA) states: "No metropolitan planning organization designated under section 134 of title 23, United States Code, shall give its approval to any project, program, or plan which does not conform to an implementation plan approved or promulgated under section 110." The Intermodal Surface Transportation Efficiency Act of 1991 subsequently included provisions responsive to the mandates of the CAAA. Implementing regulations have maintained this strong connection.

Provisions governing air-quality-related transportation planning are incorporated in a number of metropolitan planning regulations rather than being the primary focus of one or several regulations. For MPOs that are declared to be air quality nonattainment or maintenance areas, there are many special requirements in addition to the basic requirements for a metropolitan planning process. These include formal agreements to address air-quality-planning requirements, requirements for setting metropolitan planning area boundaries (MPAs), interagency coordination, MTP content and updates, requirements for the CMP, public meeting requirements, and conformity findings on MTPs and TIPs.

**4.5.2 Current Status:** The MPO is currently listed as marginal nonattainment status for the 2015 Ozone standard. A portion of the MPO was nonattainment under the 1997 ozone standards and is subject to conformity requirements due to the South Coast judicial ruling. There are three monitors in Ohio (City of Middletown, Sycamore Township, City of Lebanon) that are not attaining the ozone standard. It is anticipated that the USEPA will change the nonattainment to moderate in 2022 which will mean have additional requirements for the area.

The MPO has two separate Motor Vehicle Emission Budgets (MVEB) to use, as Ohio/Indiana and Kentucky have separate budgets. The MPO has chosen to conduct a comprehensive conformity analysis for all three states. EPA's emission model, MOVES 2014B, and 2008 MVEBs are used in this analysis. A qualitative analysis of the Kentucky "orphan" area is also included in the analysis. (The last emissions analysis was conducted September 10, 2020 and approved by USDOT on October 19, 2020.) Interagency consultation is conducted in accordance with the MPO's Conformity Memorandum of Agreement updated in 2017, and the Miami Valley Regional Planning Commission (MVRPC) is also included in the consultation process.

Congestion Mitigation and Air Quality (CMAQ) funds are suballocated in Ohio and Indiana and the MPO follows FHWA's 2013 Interim Program Guidance for determining project eligibility. KYTC CMAQ funds are distributed by the KY Office of Local Programs.

**4.5.3 Findings:** The MPO is in compliance with federal regulations.

**4.5.4 Commendation:** The MPO provides extra points in the project prioritization process for projects that reduce Vehicle Miles Traveled (VMT) and Vehicle Hours Traveled or that have cleaner vehicle emissions.



## 4.6 Freight Planning

**4.6.1 Regulatory Basis:** The FAST Act specifically calls for the need to address freight movement as part of the transportation planning process. Per 23 CFR 450.306(b), requirements for addressing freight movement as part of the transportation planning process can be found within several of the planning factors. These freight-related factors include the following:

- Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.
- Increase the accessibility and mobility of people and freight.
- Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight.

**4.6.2 Current Status:** The Cincinnati Metropolitan Planning Area (MPA) all five modes of freight in the area.

- **Airways:** The Cincinnati/Northern Kentucky International airport is in Hebron, KY and ranks 4<sup>th</sup> in North America for total cargo operations. It is home to Amazon Air Hub and DHL Express Global Superhub.
- **Highways:** I-75, I-74, I-71, I-275, and I-471. The I-75/I-75 combined crossing over the Ohio River ranks as the 8<sup>th</sup> worst bottleneck in the American Transportation Research Institutes (ATRI) 2020 Top 100 bottlenecks listing.
- **Pipelines:** Duke Energy has recently been approved to run a 13-mile gas pipeline through Hamilton County, and will travel under the Ohio River and into Northern Kentucky.
- **Railways:** There are multiple railways and railway terminals in the MPA including: CSX Transportation Queensgate Yard, Norfolk Southern Cincinnati Rail Yard, Indiana and Ohio Railway, Central Railroad-Indiana, Cincinnati Barge and Rail Terminal, Cincinnati Eastern Railroad, and the Cincinnati Railroad Company, a recreational railway.
- **Waterways:** The MPO physically sits on the Ohio River.
  - **The Ports of Cincinnati and Northern KY** is the number one inland port in the United States with more than 43 million tons of domestic cargo being transported each year.
  - **The Anderson Ferry**, a private toll ferry operation, crosses from Boone County, KY to Hamilton County, Ohio.



- **The US Coast Guard – Sector Ohio Valley**, has a Marine Safety Detachment located in Cincinnati. It is responsible for executing the US Coast Guard's Port Safety and Security, Marine Environmental Protection, and Commercial Vessel Safety missions under the auspices of the Department of Homeland Security.

It should be noted that Boone County, KY is fast becoming the logistics capitol on the East Coast. Amazon's Aero Hub will open at the end of 2021, and other companies like DHL, GE, Wayfare, Groupon Fulfillment Center, UPS Supply Chain Solutions, FedEx Ground Package System, Schwan's Global Supply Chain, Total Quality Logistics, Levi Strauss & Company, Standard Textile, and Verst Logistics are building or expanding into Boone County. These initiatives will have a profound effect on the freight industry in the area.

The MPO has made extensive efforts to integrate freight into all aspects of the planning process. Extra points are given to Freight projects in the project prioritization process

### Transportation Factors for Non-Roadway Freight Projects

Factor	Metric	Max Point Value
Modal Traffic Flow	mode vol/capacity	5
Impact on Roadway Congestion	# large trucks removed from roadway	20
Impact on Safety	High, Medium, Low	5
Project Status	Where in the PDP is the project?	5
Reliability	Estimate of impact the project will have	5
Existing Facility Conditions	poor, fair, good	5

The MPO developed a Freight Plan in 2011 and plans to completely update it in 2021. The MPO has created a link to provide information about freight in the region, [www.freight.oki.org](http://www.freight.oki.org), and each of the four modes has an interactive freight dashboard.

**4.6.3 Findings:** The MPO is in compliance with federal regulations.

#### 4.6.4 Commendations:

**Commendation 1: The collaboration to find truck parking solutions for Boone County.** Boone County, KY has seen tremendous growth in both population and freight movements in the past few years alone due to the expanded e-commerce in the area. There is a severe truck parking shortage as a result. The MPO in collaboration with Boone County formed a Truck Parking Task



Force to address the problem. The first meeting was held in July 2019. The Task Force looked at policy, partnership, and investment solutions in order to provide parking for truckers. Truck parking interests in the area are primarily two-fold: parking areas for long-haul freight movements on Interstates/freeways, and parking areas for trucks waiting for approval to dock at load/unload locations (warehouses/distribution centers). FHWA's Resource Center was brought in to help develop a strategic plan to address the problem.

**Commendation 2: Support utilization of inland waterway network.** The MPO has taken the lead and was the public sponsor for MARAD highway designation. As a result, the MPO was the project sponsor for two American Marine Highway grant fund projects (Brandenburg, KY and Jefferson, IN). Both will benefit the MPO area by removing trucks from the roadway.

The MPO in collaboration with the Central Ohio River Business Association (CORBA) launched an interactive map that features up-to-date information for facilities along the Ohio River. This initiative helps promote the assets in the Ports of Cincinnati and Northern Kentucky region.

**Commendation 3: The MPO is commended for pursuing new funding to implement critical freight transportation.** The MPO completed as was awarded two Federal Rail Administration CRISI grants worth \$2.3M. One was for the Cincinnati Bulk Terminals (CBT) which will build a bi-directional tube over Marian Way in an Opportunity Zone. The second project is the Benchmark River and Rail Trails project on US 50 that will include a preemptive signal, ADA sidewalks. This is a safety project as 95% of material moved is hazardous.

## 4.7 Travel Demand Forecasting (TDF) Model

**4.7.1 Regulatory Basis:** 23 CFR 450.324(f)(1) requires that the Metropolitan Transportation Plan include the projected transportation demand of persons and goods in the Metropolitan Planning Area over the period of the transportation plan. Travel demand forecasting models are used in the planning process to identify deficiencies in future year transportation systems and evaluate the impacts of alternative transportation investments. In air quality non-attainment and maintenance areas, they are also used to estimate regional vehicle activity for use in mobile source emission models that support air quality conformity determinations.

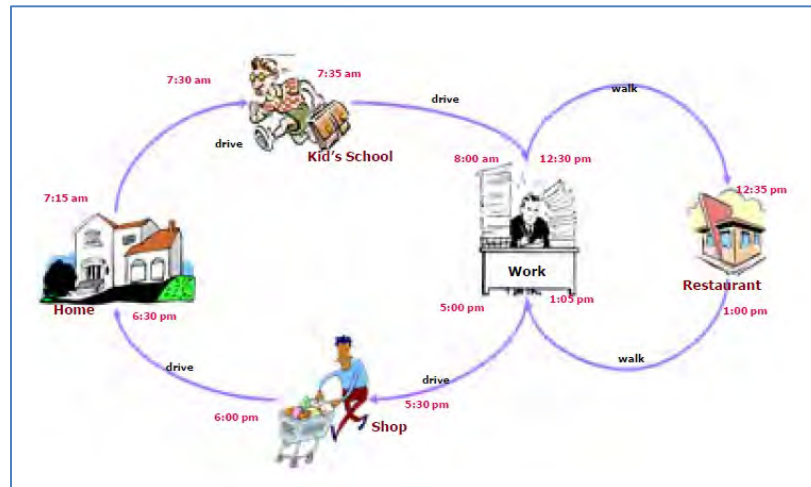
**4.7.2 Current Status:** The MPO has an Activity-based Travel Demand Forecasting (TDF) model that covers the MPO portions of KY and OH, and IN (Boone, Campbell, Kenton, 4 SW Ohio & Dearborn) as well as the Dayton area. However, the Dayton MPO maintains the data inputs for their region. The MPO uses the TDF model frequently to produce travel demand forecasts and for traffic studies.

The MPO uses CUBE's a Coordinated Travel-Regional Activity Based Modeling Platform (CT-RAMP™) that has a population synthesis module, an activity simulation module, a vehicle allocation module, and produces highway and transit assignments. This Time-Of-Day model



with four time periods, 2,299 Traffic Analysis Zones (TAZ), with a base year of 2015. 2015 was selected as the base year as this was the most recent year of data that all three states had. The modal years are 2020, 2030, 2040, with an outyear of 2050 to match the Air Quality analysis years. Speeds are based on 2015 Inrix travel time data.

The activity simulation module produces trip origin-destination, time, and mode choice.



Highway assignments are based on household income level, vehicle occupancy, truck type and assigned to four different time periods. Vehicle Miles Traveled (VMT) and volume statistics are produced for five facility types (interstate, freeway/expressway, collector, and local roads). Transit assignments are based on five different time periods.

**Socioeconomic Data** is by Traffic Analysis Zones (TAZ) and includes household, population, employment by industry, student enrollment and airport passengers. Model population and employment data was spread out between the 2,299 internal TAZs, and 63 external TAZs.

- **Household population** was obtained from the 2015 Census data and the American Community Survey (ACS) for a three-year average. Population growth is mostly in Boone, Butler, and Clermont Counties.
- **Employment data** was obtained through Reference USA (InfoUSA) and cross checked with information from the US Census' Longitudinal Employer Household Dynamic (LEHD) Origin-Destination Employment Statistics and the 2012-2016 Census Transportation Planning Products. Employment growth is mostly in Hamilton, Butler, and Kenton Counties.
- **Student Enrollment data** was obtained from the US Department of Education's Common Core of Data and the National Center for Education Statistic's Private School Survey. Student enrollment is increasing in Boone, Butler, and Clermont Counties.
- **Airport passenger data** was obtained from the Cincinnati/N. KY Airport. Passenger data was increasing prior to 2020.
- **Land use data** is derived from employment and household data.





**Activity Patterns and Tour Generation** includes daily activity patterns, tour frequency, and average number of tours per person.

- **Tour destination choice** generated by the model is checked using StreetLight™ data.
- **Journey-to-work flow and mode choice** generated by the model is compared to the American Community Survey (ACS)'s Census Transportation Planning Products Program (CTPP) data.
- **Volume time-of-day distribution** produced by the model is compared to actual count data.
- **Trip Rate Assumptions** are based on information from the previous model as well as other travel demand models of similar size.
- **Level Of Service (LOS)** and functional class capacity calculations are based on Highway Capacity Manual equations that utilize data such as functional class, speed limits, lanes, median treatment, area type, lane width, and shoulder width.

Person trips are split into auto trips and transit trips through the mode choice module. Auto person trips are converted to vehicle trips through the vehicle allocation module based on the trip purpose, household car ownership, and household structure.

**Vehicle Miles Traveled (VMT)** produced by the TDF model is compared to System Mileage by Functional Class reported by ODOT, KYTC, and INDOT. Those are the same numbers reported by each state with the annual HPMS submittal. **Transit VMT** calculation is complicated because of the frequency and route factors. A rough estimate of the transit VMT percentage is about 0.4%.

Trip rates are reviewed when the model is calibrated and then adjusted to total VMT, and trip duration. When trips to an area appear too attractive (model volumes are higher than counted volumes) then a time penalty is added. This is done simultaneously when the tour generation module and destination choice module are calibrated against the counted volumes and observed VMT. Travel time is one of the variables in the destination choice model. If the modeled volumes and VMT are too high/low compared with counted volume and observed VMT, the coefficient of travel time is revised to adjust the trip duration.

The MPO plans to include funding in their FY22 budget to purchase a TransModeler license and begin building a microsimulation model for specific project modeling.

**4.7.3 Findings:** The MPO is in compliance with federal regulations.

**4.7.4 Commendation:** The TDF Model is using the MPO C/AV predictions to forecast future year LOS. The MPO should be commended for their futuristic planning as it includes C/AV and forecasts a VMT decrease.



## 4.8 Security/Resilience/Climate Change

**4.8.1 Regulatory Basis:** 23 U.S.C. 134(h)(1)(C) requires MPOs to consider security as one of ten planning factors. As stated in 23 CFR 450.306(a)(3), the Metropolitan Transportation Planning process provides for consideration of security of the transportation system.

The regulations state that the degree and consideration of security should be based on the scale and complexity of many different local issues. Under 23 CFR 450.324(h), the MTP should include emergency relief and disaster preparedness plans and strategies and policies that support homeland security, as appropriate.

**4.8.2 Current Status:** The MPO considers all modes of transportation to be critical infrastructure and plans are in place to provide alternatives should there be a disruption in one of the components. During natural disasters (Hurricane Katrina, Smoky Mountain Fires, Hurricane Harvey) the MPO will be of vital importance should an event occur. The MPO has taken the following steps:

- The MPO secures their information on the cloud so that it can be accessed from any location.
- The MPO considers building redundancy into the project selection process in case one of the transportation assets is unavailable during a crisis.
- The MPO, Transit agencies, and Homeland Security have identified emergency corridors for all areas of the TMA and have developed an area plan for immediate evacuation for the entire MPA.
- The MPO sits on the Ohio River and flooding is a major concern as the frequency of extreme events has increased in recent years. Proactively, the MPO developed a Geographic Information System (GIS) application, Regional Asset Verification & Emergency Network (RAVEN911), a program that monitors the Ohio River for flooding. RAVEN911 combines emergency responder defined critical data sets with mapping to be used in a meaningful and efficient way during an emergency. Access is granted to any emergency responder (fire and emergency medical services, law enforcement, hazardous materials, communications, public health, hospitals, public works, emergency management and select private/non-profit partners).



- The MPO 2050 MTP includes \$181 M in Transportation Systems Management and Operations (TSMO) projects as TSMO projects can help with traffic incident management activities, road and lane closures, can be used to vary speeds or reduce speeds on the roadways, and provide information on road and transit diversions. Overall, the MPO has \$8.21 B worth of highway and transit operation and maintenance projects in their MTP. These projects include pavement management, bridge inspection, weather, work zone, and asset management.

**4.8.3 Finding:** The Cincinnati MPO is in compliance with federal regulations.

**4.8.4 Commendation:** The MPO developed an internet-based mapping system, RAVEN911, that can be used by emergency responders during flood events. The system demonstrates the MPO's technical expertise and use of GIS technology. RAVEN911 was funded entirely with grant monies from the U.S. Department of Homeland Security (UASI, MMRS), USDOT FHWA, and in-kind funding from the Cincinnati Fire Department.

## 4.9 Civil Rights (Title VI, EJ, LEP, ADA)

**4.9.1 Regulatory Basis:** USDOT ensures nondiscrimination under Title VI of the Civil Rights Act of 1964 (and other non-discrimination statutes). Title VI states “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Title VI bars intentional discrimination as well as disparate-impact discrimination (that stemming from neutral policy or practice that has the effect of a disparate impact on protected groups).

Planning regulations [23 CFR 450.334(a)(3)] require FHWA and FTA to certify that “the planning process . . . is being conducted in accordance with all applicable requirements of . . . Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794.” The Title VI assurance adds sex (gender) and disability to characteristics protected against discrimination.



Executive Order 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (1994), provides that “each Federal agency shall make achieving Environmental Justice part of its mission by identifying and addressing, as appropriate, disproportionately high or adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income population ...”. In compliance with this Executive Order, the USDOT Order on Environmental Justice was issued in 1997. Planning regulations (23 CFR 450.316(a)(1)(vii)) require that the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households that may face challenges accessing employment and other services, be sought out and considered.

Executive Order 13166 - Improving Access to Services for Persons with Limited English Proficiency, ensures that, consistent with Title VI, persons with LEP have meaningful access to Federally conducted and funded programs and activities. The Order requires all agencies that provide Federal financial assistance to issue guidance on how Title VI applies to recipients of that assistance in their contact with persons who have LEP.

#### **4.9.2 Current Status:**

##### **Title VI Coordinator:**

OKI currently has an employee designated as its Title VI Coordinator.

##### **Title VI Implementation Plan:**

OKI aims for compliance with federal regulations per its Title VI Implementation Plan. The Plan is updated annually and made available to the public via a link on its website.

##### **Title VI Complaint Process:**

OKI has not received Title VI and/or nondiscrimination complaints since the last Certification Review and has documented its complaint process in accordance with ODOT’s MPO/RTPO Title VI Plan. It also makes this information available to the public via a link on its website.

##### **Census and other data for identifying protected groups in the planning process:**

OKI reports that it has developed a demographic profile of the metropolitan planning area as a whole.

##### **Standard Title VI Assurances:**

OKI reports that it includes Title VI Assurances in all required documents as indicated in its Title VI Implementation Plan, and updates these assurances annually.

##### **Disadvantaged Business Enterprise Program:**

OKI has a DBE Program document that appropriately outlines its role regarding contracting to DBEs.



While the Federal Review Team recognizes that OKI is following the processes outlined in the current ODOT MPO/RTPO Title VI Manual, necessary revisions were identified for that manual to more accurately follow the complaint process for complaints received under Title VI regulations, as outlined by the US DOT and FHWA regulations. Updates to ODOT's manual were made after the date of the virtual onsite for OKI. Now that it has been updated, all Ohio MPOs and RTPOs, including OKI, will need to revise their individual Title VI Plans to conform with these changes. OKI should continue to coordinate with ODOT to ensure their Title VI Plan reflects all necessary changes regarding the Title VI complaint process.

**4.9.3 Finding:** Civil Rights is integrated into OKI's planning process and fulfills the regulatory requirements.

## 4.10 PUBLIC OUTREACH AND INVOLVEMENT

**4.10.1 Regulatory Basis:** Sections 134(i)(5), 134(j)(1)(B) of Title 23 and Section 5303(i)(5) and 5303(j)(1)(B) of Title 49 require an MPO to provide adequate opportunity for the public to participate in and comment on the products and planning processes of the MPO. The requirements for public involvement are detailed in 23 CFR 450.316, which requires the MPO to develop and use a documented participation plan that includes explicit procedures and strategies to include the public and other interested parties in the transportation planning process. Specific requirements include giving adequate and timely notice of opportunities to participated in or comment on transportation issues and processes, employing visualization techniques to describe metropolitan plans and TIPs, making public information readily available in electronically accessible formats and means such as the world wide web, holding public meetings at convenient and accessible locations and times, demonstrating explicit consideration and response to the public input, and periodically reviewing the effectiveness of the participation plan. In addition, the MPO must seek out and consider the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services.

**4.10.2 Status:** OKI is engaged in promoting and seeking public involvement early and continuously throughout the transportation planning process. The organizational structure of OKI includes advisory committees which provide opportunity for the public to participate in various components of the planning process. In addition, the MPO uses social media and web visualization tools to engage the public regarding transportation projects, products, and processes.

The MPO has a documented Participation Plan (PP), dated January 2018, that contains explicit procedures and strategies to include the public and other interested parties in the transportation planning process. The PP is updated every four years, and outlines techniques for evaluating the effectiveness of public outreach. The current PP does not include explicit procedures related to public access to and participation in MPO programs, processes, and



meetings during times of emergency and/or deviation from standard practices. It is recommended that the MPO include such procedures in the next update to the plan.

OKI integrates Title VI requirements and Environmental Justice considerations within their planning activities, including the assessment of the impacts of the MTP and TIP recommendations on minority and low-income target areas within the OKI region, and the incorporation of the standing environmental justice committee in the project prioritization and selection process. The most recent MPO Title VI program describes data gathering and analysis procedures, includes training for the staff, and outlines the “four-factor analysis” to identify and involve traditionally underserved and/or LEP populations in the transportation planning process. In accordance with notations from the 2016 certification review, OKI has taken steps to incorporate information about land acquisition/displacements for federally funded projects in the OKI area, including those for which OKI is not a project sponsor. OKI has also taken steps to clarify their EJ analysis with regard to populations outside of the EJ Executive Order 12898, and how that analysis is used in the transportation planning process.

In the development of the most recent long-range plan update, OKI employed social media platforms, public survey tools, and online public meetings to gather public input. The full 2050 MTP is available on OKI’s website in web format. The MPO is regularly tracking statistics with regard to web and social media use, and using the data to make adjustments with regard to public outreach. While the web format of the plan allows for some audiences to have easy and convenient access to the document, those without web access or with other impediments to web use, may need to have the document (and the policies and projects within) available in a different format. Public comment and input received during the development of the MTP should be recorded and integrated into the final document.

In the development of the most recent TIP (FY2021-2024), OKI employed social media platforms, public survey tools, and online public meetings to gather public input. The comments received were documented and included in the final version of the TIP, which is available for review and download on the MPO’s website.

**4.10.3 Findings:** The FHWA/FTA federal review team finds that the MPO meets the regulatory requirements found in 23 CFR 450.316.

**4.10.4 Commendation:** OKI has moved beyond the minimum requirements of environmental justice analysis for projects, and proactively developed a standing environmental justice committee. Furthermore, the MPO has taken steps to incorporate the committee into the transportation planning process by empowering them to provide vital input into the project prioritization and selection process for the region.



## 4.11 Congestion Management Process (CMP)

**4.11.1 Regulatory Basis:** 23 CFR 450.322, the Congestion Management Process (CMP) applies to TMAs and is a systematic approach for managing congestion through a process that “provides for safe and effective integrated management and operation of the multimodal transportation system, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 U.S.C., and title 49 USC Chapter 53 through the use of travel demand reduction, job access projects, and operational management strategies.” The development of a congestion management process should result in a multimodal system performance measures and strategies that can be reflected in the metropolitan transportation plan (MTP) and the Transportation Improvement Program (TIP). Federal regulations also require that the CMP include methods to monitor and evaluate the performance of the multimodal transportation system.

23 CFR 450.322 (f) states *“In a TMA designated as a nonattainment area for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed for any projects that will result in a significant increase in the carrying capacity for SOVs, unless the project is addressed through the congestion management process.”*

Congress specifically established Congestion Reduction as a national goal for the Federal-aid highway program as provided in 23 USC 150(b)(3).

**4.11.2 Current Status:** The MPO adopted their CMP in July 2020. The CMP’s goals closely mirror the federal planning factors and specifically state that the CMP will be used to improve liability and economic vitality in the region, limit congestion and increase accessibility to jobs, improve transportation safety, and to develop strategies to facility the mobility of people and goods. The CMP and the TDF model are intricately linked. The CMP references output from the travel demand model as one of its data sources in the analysis of congestion problems and needs. The CMP is used by MPO staff to help selecting and prioritize projects for the MPO’s MTP and TIP that will have positive and impactful results on traffic congestion and air quality. The CMP was used to help MPO staff identify ten Transportation Systems Management and Operations (TSMO) Corridors.

The CMP has performance measures that link with the MPO’s MTP and TIP. The Federal Performance Measures include: Level of Travel Time Reliability (LOTTR), Level of Truck Travel Time Reliability (LOTTTR), Peak Hour Excessive Delay Per Capital (PHED), Percent of Non-Single Occupancy Vehicle Travel, and Total Congestion Mitigation and Air Quality (CMAQ) Mobile Source Emissions. Other CMP performance measures include Travel Time Index (TTI), Intersection Delay, Intersection Level-Of-Service (LOS), Peak Period Travel Times Between Major Destinations, and Incident Clearance Times.

ODOT has been able to provide NPMRDS (INREX) data for all three states for the last few years. In December 2020, KYTC began providing NPMRDS (INRIX and RITIS) data to all MPOs. ODOT



KYTC has link level NPMRDS data through 2017 and provides it upon request. However, the MPO has not needed to take advantage of that opportunity. OKI participates financially on an ODOT contract for StreetLight Data™ for all three states which provides origin and destination data and has expanded coverage. ODOT also provides technical support.

**4.11.3 Findings:** The MPO is in compliance with federal regulations.

## 4.12 Transit Planning

**4.12.1 Regulatory Basis:** 23 CFR 450.300(a) states: ...the MPO designated for each urbanized area is to carry out a continuing, cooperative, and comprehensive multimodal transportation planning process... to serve the mobility needs of people and freight... 23 CFR 450.306(b)(6) states: The metropolitan transportation planning process shall...enhance the integration and connectivity of the transportation system, across and between modes... 23 CFR 450.306(h) states: Preparation of the coordinated public transit-human services transportation plan, as required by 49 USC 5310 should be coordinated and consistent with the metropolitan transportation planning process.

**4.12.2 Status:** OKI coordinates the allocation of funds from two FTA grant programs with the transit operators in the region. This includes the Urbanized Area Formula Funding program (49 U.S.C. 5307) which makes federal resources available to urbanized areas of 200,000 or more for transit capital assistance, planning and in some cases, operating assistance and the Bus & Bus Facilities Program (49 U.S.C. 5339) which provides funding for replacing buses, bus related equipment and construction of bus facilities. Each year an allocation letter is prepared showing the distribution of funding to the transit operators which includes the Southwest Ohio Regional Transit Authority (SORTA), Butler County Regional Transit Authority, Clermont County Connection, Transit Authority of Northern Kentucky (TANK), and Warren County Transit System. Funding determinations are generally based on FTA's national formula.

**4.12.3 Findings:** The Review Team finds that transit is integrated into OKI's transportation planning process. During the Certification Review, it was noted by FTA and one of the transit providers that Clermont County has demonstrated repeatedly that it struggles to utilize its allocated formula funding before the funds are set to lapse. This has presented situations where FTA funds have been awarded to other transit operators so that federal funding is utilized. It highlights the issue that funding allocations do not reflect current need by all operators.

Also, several operators have a secondary agreement to re-allocate money back to SORTA after the MPO sends an allocation letter to FTA identifying the amounts each agency is to receive for the fiscal year. OKI confirmed that they do not receive notification of the re-allocation of dollars. FTA has made it known that the MPO should provide an allocation letter that





accurately reflects what each agency will truly have available for FTA award and what will be supported by the TIP. FTA also noted that there have been situations where funds allocated by OKI and ODOT and awarded in FTA grants have not been fully utilized for the purposes of the award.

After becoming a Direct Recipient the City of Cincinnati is now eligible to receive a portion of the Section 5307 formula funding allocated to the UZA. At the time of the Certification Review, the City of Cincinnati had not been incorporated into the City's planning process or documents as a transit operator. As of this writing, the OKI had communicated with the City for the purposes of signing a planning agreement. Going forward, it will become imperative for the City to work closely with OKI to demonstrate that the City has financial capacity, specifically, local funding to maintain and operate the Streetcar and match any potential federal funding that may be programmed in the TIP and MTP.

**4.12.4 Recommendation:** It is recommended that OKI work with FTA, ODOT and the transit operators to identify a process to ensure that all parties: 1) have an accurate accounting of available and lapsing transit funding at the beginning of each federal fiscal year; and 2) document the completion status of projects awarded with federal funds from both FTA and FHWA on an annual basis. Having a current snapshot in these areas should influence how formula funds are allocated to better reflect the near-term capital and operating needs of transit operators and impact "history of performance" considerations in the OKI project selection process with respect to funds that are transferred from FHWA to FTA. Consideration should be given to incorporate this process into the one used to gather information for the annual listing of obligated projects.

## 4.13 Coordinated Public Transit-Human Services Transportation Planning

**4.13.1 Status:** OKI is the Designated Recipient of FTA's Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities Program. As Designated Recipient, OKI is responsible for making sure that projects funded under Section 5310 are supported by a locally developed Coordinated Public Transit-Human Services Transportation Plan (coordinated plan). OKI's original plan was adopted in 2007, with updates occurring in 2012, 2016 and 2020. The most recent update was able to significantly assess how mobility needs are being met through user surveys conducted in 2012, 2016, and 2020.

**4.13.2 Finding:** Since the last Certification Review, OKI agreed to take full responsibility for the 5310 Program including the purchase of vehicles and the procurement process that goes along with it. The Coordinated Plan update and OKI's administration of the Section 5310 Program includes all the key elements required to meet FTA requirements. Key objectives now include integrating new technologies that improve mobility service accessibility and/or reduce



operating costs.

## 5.0 CONCLUSIONS, RECOMMENDATION AND COMMENDATIONS

The Federal Review Team concludes that the Ohio-Kentucky-Indiana Regional Council of Governments (OKI), ODOT, and the transit operators in the region have made commendable efforts in the continuous, cooperative, and comprehensive (3-C) planning process. Based upon the findings of this review, the transportation planning process, as carried out by OKI for the Cincinnati, Ohio Transportation Management Area (TMA), meets the requirements of Federal regulations.

FTA and FHWA, therefore, jointly certify the transportation planning process carried out by OKI for the Cincinnati, Ohio TMA with the following recommendation and commendations:

### 5.1 Recommendations

The following are recommendations intended to improve the transportation planning process:

**Agreements:** It is recommended that OKI update its planning agreement(s) with Ohio public transportation agencies to include the City of Cincinnati as a public transportation operator.

**Transit Planning:** It is recommended that OKI work with FTA, ODOT and the transit operators to identify a process to ensure that all parties: 1) have an accurate accounting of available and lapsing transit funding at the beginning of each federal fiscal year; and 2) document the completion status of projects awarded with federal funds from both FTA and FHWA on an annual basis. Having a current snapshot in these areas should influence how funds formula funds are allocated to better reflect the near-term capital and operating needs of transit operators and impact “history of performance” considerations in the OKI project selection process with respect to funds that are transferred from FHWA to FTA. Consideration should be given to incorporate this process into the one used to gather information for the annual listing of obligated projects.

### 5.2 Commendations

**Transportation Improvement Program:** The MPO has developed a robust project prioritization process that incorporates regional strategic goals and priorities, performance measures and targets, environmental justice considerations, multimodal initiatives, as well as local comprehensive plans. The effective integration of system performance requirements and



strategic regional plans and priorities is commendable and may be used as a best practice for other TMA areas.

**Transportation Improvement Program:** The MPO has thoroughly integrated PBPP into the TIP and MTP, effectively identifying and documenting how projects and priorities in the region are anticipated to affect the selected performance targets for all three of the DOTs associated with OKI. OKI's approach to PBPP integration and documentation commendably links investments in the region with system performance.

**Intelligent Transportation:** The MPO has identified ten TSMO corridors and plans to expand the ITS architecture to include more ITS applications in the ITS architecture.

**Intelligent Transportation:** The MPO provides extra points in the project prioritization process for projects that reduce Vehicle Miles Traveled (VMT) and Vehicle Hours Traveled or that have cleaner vehicle emissions.

**Freight: The collaboration to find truck parking solutions for Boone County.** Boone County, KY has seen tremendous growth in both population and freight movements in the past few years alone due to the expanded e-commerce in the area. There is a severe truck parking shortage as a result. The MPO in collaboration with Boone County put together a Truck Parking Task Force to address the problem. The first meeting was held in July 2019. The Task Force looked at policy, partnership, and investment solutions in order to provide parking for truckers. Truck parking interests in the area are primarily two-fold: parking areas for long-haul freight movements on Interstates/freeways, and parking areas for trucks waiting for approval to dock at load/unload locations (warehouses/distribution centers). FHWA's Resource Center was brought in to help develop a strategic plan to address the problem.

**Freight: Support utilization of inland waterway network.** The MPO has taken the lead and was the public sponsor for MARAD highway designation. As a result, the MPO was the project sponsor for two American Marine Highway grant fund projects (Brandenburg, KY and Jefferson, IN). Both will benefit the MPO area by removing trucks from the roadway.

The MPO in collaboration with the Central Ohio River Business Association (CORBA) launched an interactive map that features up-to-date information for facilities along the Ohio River. This initiative helps promote the assets in the Ports of Cincinnati and Northern Kentucky region.

**Freight: The MPO is commended for pursuing new funding to implement critical freight transportation.** The MPO completed as was awarded two Federal Rail Administration CRISI grants worth \$2.3M. One was for the Cincinnati Bulk Terminals (CBT) which will build a bi-directional tube over Marian Way in an Opportunity Zone. The second project is the Benchmark River and Rail Trails project on US 50 that will include a preemptive signal, ADA sidewalks. This is a safety project as 95% of material moved is hazardous.



**Travel Demand Forecasting:** The TDF Model is using the MPO C/AV predictions to forecast future year LOS. The MPO should be commended for their futuristic planning as it includes C/AV and forecasts a VMT decrease.

**Security and Resiliency:** The MPO developed an internet-based mapping system, RAVEN911, that can be used by emergency responders during flood events. The system demonstrates the MPO's technical expertise and use of GIS technology. RAVEN911 was funded entirely with grant monies from the U.S. Department of Homeland Security (UASI, MMRS), USDOT FHWA, and in-kind funding from the Cincinnati Fire Department and OKI matching funds.

**Public Involvement:** OKI has moved beyond the minimum requirements of environmental justice analysis for projects, and proactively developed a standing environmental justice committee. Furthermore, the MPO has taken steps to incorporate the committee into the transportation planning process by empowering them to provide vital input into the project prioritization and selection process for the region.



## APPENDIX



## PUBLIC COMMENTS

An online public meeting was held from 4:00PM until 5:00PM on November 18, 2020. Representatives from OKI, members of the OKI Board and committees and the Review Team attended. The comments at the public meeting were all in general support of OKI and its staff.

The public was also afforded the opportunity to send comments directly to representatives of the Review Team until December 15, 2020. Joshua Gerth, Chair of the Anderson Township Trustees submitted a letter in support of the regional planning process.



## LIST OF ACRONYMS

**ADA:** Americans with Disabilities Act  
**AMPO:** Association of Metropolitan Planning Organizations  
**CAA:** Clean Air Act  
**CFR:** Code of Federal Regulations  
**CMP:** Congestion Management Process  
**CO:** Carbon Monoxide  
**DOT:** Department of Transportation  
**EJ:** Environmental Justice  
**FAST:** Fixing America's Surface Transportation Act  
**FHWA:** Federal Highway Administration  
**FTA:** Federal Transit Administration  
**FY:** Fiscal Year  
**HSIP:** Highway Safety Improvement Program  
**ITS:** Intelligent Transportation Systems  
**LEP:** Limited-English-Proficiency  
**M&O:** Management and Operations  
**MAP-21:** Moving Ahead for Progress in the 21<sup>st</sup> Century  
**MPA:** Metropolitan Planning Area  
**MPO:** Metropolitan Planning Organization  
**MTP:** Metropolitan Transportation Plan  
**NAAQS:** National Ambient Air Quality Standards  
**NO<sub>2</sub>:** Nitrogen Dioxide  
**O<sub>3</sub>:** Ozone  
**PM<sub>10</sub> and PM<sub>2.5</sub>:** Particulate Matter  
**SHSP:** Strategic Highway Safety Plan  
**STIP:** State Transportation Improvement Program  
**TDM:** Travel Demand Management  
**TIP:** Transportation Improvement Program  
**TMA:** Transportation Management Area  
**U.S.C.:** United States Code  
**UPWP:** Unified Planning Work Program  
**USDOT:** United States Department of Transportation

**Virtual Site Visit Agenda OKI  
Certification Review**

**November 18-19, 2020**

**Wednesday, November 18, 2020**

9:00 A.M.      Welcome, Introductions, and Purpose of Certification, *Frank Burkett, FHWA*

9:15 A.M.      *Overview of the Regional Transportation Planning Process, OKI staff*

*FHWA and FTA topics of interest for this review*

- MPO Organizational Structure and Committees – *Mark Policinski*
- Status of the Recommendations from the Previous Review – *Bob Koehler*
- Status of MPO Agreements – *Bob Koehler*
- Unified Planning Work Program – *Bob Koehler*
- Performance Based Planning and Programming – *Brett Porter*
- Project Prioritization Process – *Bob Koehler*
- Transportation Improvement Program – *Andy Reser*
- Annual Listing of Obligated Projects – *Andy Reser*
- Transit Planning – *SORTA, TANK, BCRTA, MTS, CTS, WCTS (10:30 to 11:00)*
- Coordinated Plan and 5310 Program – *Travis Miller and Summer Jones*
- Metropolitan Transportation Plan – *Bob Koehler*
- Freight Planning – *Robyn Bancroft*
- Transportation Technology - *Robyn Bancroft*
- Travel Demand Model – *Liren Zhou*
- Information Systems, Maps & Apps – *David Shuey*
- ITS Architecture – *Brett Porter*
- Congestion Management Process – *Brett Porter*
- Air Quality – *Andy Reser*
- Land Use Commission/Strategic Regional Policy Plan/FIAM – *Travis Miller*
- Environmental Consultations – *Margaret Minzner*
- Climate Change/Resiliency - *Margaret Minzner*
- Ohio River Recreational Trail and Tourism – *David Rutter*
- Title VI, DBE and Environmental Justice – *Florence Parker*
- Public Involvement – *Lorrie Platt*



4:00-5:00 Certification Public Listening Session

Thursday, November 19, 2020

9:00 A.M.      *Resume Discussions, if necessary*





**Ohio FHWA Division Office**

**200 North High Street**

**Columbus, Ohio 43215**

**(614) 280 - 6896**

AGREEMENT BETWEEN THE OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS AND THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION FOR URBAN TRANSPORTATION PLANNING AND TRANSPORTATION PROGRAMS

The Ohio-Kentucky-Indiana Regional Council of Governments, (**AGENCY**), created pursuant to Section 167 of the Ohio Revised Code, having its principal office at 720 East Pete Rose Way, Cincinnati, Ohio 45202 and the State of Ohio, Department of Transportation (ODOT), having its principal office at 1980 West Broad Street, Columbus, Ohio 43223, agree as follows:

SECTION I: PURPOSE

The purpose of this Agreement is to implement 23 United States Code (U.S.C.) §134 and 49 U.S.C. §5303, as may be amended, requiring designation of a Metropolitan Planning Organization (MPO) for the Cincinnati, OH-KY-IN and Middletown, OH urbanized areas and for such MPO to conduct a continuing, cooperative, and comprehensive urban transportation planning process, including corridor and subarea studies, for the metropolitan area, hereinafter referred to as the "PROCESS". The PROCESS is to result in plans and programs that consider all transportation modes and supports metropolitan community development and social goals. These plans and programs shall lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods. It is the intent of the parties hereto that the PROCESS shall be carried forward on a continuing basis.

SECTION II: DEFINITIONS

1. **Catalog of Federal Domestic Assistance (CFDA) number.** §200.10 CFDA number means the number assigned to a Federal program in the CFDA.
2. **CFDA Program Title.** §200.11 CFDA program title means the title of the program under which the Federal award was funded in the CFDA.
3. **Federal Awarding Agency.** §200.37 Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity.
4. **Federal Award Date.** §200.39 Federal award date means the date when the Federal award is signed by the authorized official of the Federal awarding agency.
5. **Pass-Through Entity.** §200.74 Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.
6. **Period of Performance.** §200.77 Period of performance means the time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award.
7. **Subrecipient.** §200.93 Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
8. **Subrecipient's DUNS Number.** See §200.331(a)(1)(ii) *Subrecipient's unique entity identifier*. The DUNS Number [is] the "unique entity identifier" used to identify a specific commercial,

nonprofit, or government entity. Dun & Bradstreet is the designated entity to establish and maintain the DUNS Number, which is required for registration in SAM and used throughout federal procurement, financial assistance, and financial management systems. The subrecipient needs a Data Universal Numbering System (DUNS) number to register the entity in the U.S. Federal government's System for Award Management (SAM). A subrecipient must have an active registration in SAM to do business with the Federal Government.

### SECTION III: MPO DESIGNATION

ODOT, acting on behalf of Ohio's Governor, has designated the Board of Directors of the AGENCY as the Metropolitan Planning Organization for the Cincinnati, OH-KY-IN and Middletown, OH urbanized areas. The Board of Directors is hereby delegated the authority and responsibility for the direction, coordination, and administration of the PROCESS. Consistent with 23 Code of Federal Regulations (CFR) Part 450.310(d), the Board of Directors shall be comprised of local elected officials and officials of public agencies that administer or operate major modes of transportation in the metropolitan area including representation by providers of public transportation within the "AREA" (as defined in Agreement Section V) and ODOT, as enumerated in an AGENCY PROSPECTUS.

This Board of Directors, as the forum for cooperative transportation decision making, shall be comprised of at least 51% locally elected officials.

The Board of Directors shall be assisted by a Technical Advisory Committee comprised as enumerated in the PROSPECTUS.

### SECTION IV: SUBRECIPIENT DESIGNATION

The AGENCY is hereby designated as the SUBRECIPIENT of the Federal funds awarded by this SUBAWARD GRANT AGREEMENT.

### SECTION V: MPO BOUNDARY

The parties agree that in Ohio, the conduct of the PROCESS will be for the area consisting of all of Butler, Clermont, Hamilton, and Warren (excluding the cities of Carlisle, Franklin, and Springboro, and Franklin Township) counties, including the incorporated municipalities therein, which is hereinafter referred to as the "AREA", or as may be modified by mutual consent of the signatories to this Agreement. At a minimum, without need for additional written consent of the signatories to this Agreement, the AREA will consist of the Urbanized Area as defined by the U.S. Bureau of the Census and the contiguous geographic area(s) likely to be urbanized within the twenty year forecast period covered by the Transportation Plan (23 CFR Part 450.312(a), except as may be located within the jurisdiction of another Metropolitan Planning Organization. The AGENCY shall prepare an official map of the AREA, for approval by the Board of Directors and shall submit such map to ODOT.

### SECTION VI: CARRY FORWARD FUNDING

The parties agree that upon completion of the state fiscal year (June 30<sup>th</sup>) any unexpended balance of U.S. DOT (49 U.S.C. Section 5303), Federal Metropolitan Planning Funds (PL), or State Planning and Research funds (SPR) funds and any associated state matching funds allocated by ODOT may be carried forward into the next state fiscal year. The carry forward funding will remain available for eligible WORK PROGRAM expenses through December 31<sup>st</sup> of the new state fiscal year. On January 1<sup>st</sup> of each year, the unexpended balance of any prior year U.S. DOT (49 U.S.C. Section 5303), PL, or SPR funds and any associated state matching funds carried forward will lapse. The AGENCY agrees

to submit invoices for the eligible expenses financed with the carry forward funding, prior to the January 1<sup>st</sup> deadline, by January 31<sup>st</sup>.

## SECTION VII: TRANSPORTATION PLANNING PROCESS PRODUCTS AND SERVICES

Annually, the AGENCY shall prepare a WORK PROGRAM and budget describing the planning process and program activities to be performed under this Agreement, with the cost relating to individual work elements and the source of funding thereof. Such WORK PROGRAM and budget shall be approved by the Board of Directors, ODOT, and other state and federal agencies as necessary, prior to the first day of July of each fiscal year, in accordance with ODOT's MPO Administrative Manual, as may be modified. The WORK PROGRAM, budget and any updates which can be found at <https://extranet.dot.state.oh.us/divisions/Planning/plan/STIP/default.aspx>, are made a part hereof and incorporated by this reference as if fully rewritten herein.

Specifically, the WORK PROGRAM and budget shall record the AGENCY's progress in developing and keeping current the following items, as further described in 23 CFR Part 450 and 490, as may be amended:

1. A PROSPECTUS describing the AGENCY's organizational structure, committee bylaws, and the work to be performed in the conduct of the PROCESS. The PROSPECTUS shall document the interagency agreements and describe the respective agency roles and responsibilities for conducting the PROCESS and transportation related air quality planning.
2. A Transportation Plan, with a minimum 20-year planning horizon, resulting from the PROCESS.
3. A Transportation Improvement Program, with a 4-year regional project listing, resulting from the PROCESS.
4. A Participation Plan that provides reasonable opportunities for interested public and private parties to participate in the PROCESS.
5. A Congestion Management Process in Transportation Management Areas (urbanized areas exceeding 200,000 in population).
6. A periodic reporting of events, developments, and accomplishments resulting from the PROCESS.
7. In cooperation with ODOT, implementation of a performance-based PROCESS to include transportation programming and performance metrics.

## SECTION VIII: COORDINATION

The AGENCY shall secure agreements of cooperation with the county(ies), all incorporated municipalities, and the operators of publicly owned transit services, within the AREA for carrying forward the PROCESS. In the event that there is an unwillingness on the part of any of these entities to participate in the continuation of the PROCESS, a determination shall be made by the parties hereto as to whether the percentage of the AREA or population affected is such as to negate an effective PROCESS for the entire AREA; such determination will be submitted by ODOT to the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) for concurrence.

The AGENCY will make provisions for operators of other major modes or systems of transportation (airports, maritime ports, rail operators, freight operators) operating within the AREA, to participate in the PROCESS.

In areas designated as nonattainment or maintenance for mobile source pollutants under the Clean Air Act, the AGENCY shall secure agreements with affected state and local agencies describing the respective roles and responsibilities for addressing transportation related air quality planning in the performance of the PROCESS and determining the transportation conformity of the MPO Transportation Plan and Transportation Improvement Program, in accordance with the U.S. EPA Conformity Rule (40 CFR part 93).

The AGENCY acting for itself and as agent for the county(ies) and each of the incorporated municipalities within the AREA shall continue the PROCESS for the AREA in conformance with the approved urban transportation planning PROSPECTUS and WORK PROGRAM describing the continued treatment of the elements of the PROCESS, both of which are made a part hereof, and incorporated by reference as if fully rewritten herein, or as the same may be modified by the AGENCY with the prior approval of the ODOT in accordance with this Agreement.

#### SECTION IX: PERIOD OF PERFORMANCE

The work under this Agreement shall commence on July 1, 2023 and will terminate on June 30, 2025. At that time, ODOT may renew this Agreement on substantially the same terms and conditions, in conformance with applicable Federal and State law.

This Agreement and any renewal thereof is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to ODOT for the purposes of this Agreement, and to the certification of funds by the Ohio Office of Budget and Management, as required by §126.07 Ohio Revised Code. If ODOT determines that sufficient funds have not been appropriated for the purposes of this contract, or if the Ohio Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date that the funding expires without any further obligation by either party.

#### SECTION X: TERMINATION

This Agreement may be terminated by any party to this Agreement upon written notice to all other parties. Any such written notice of termination shall include the terminating party's reasons for electing to terminate this Agreement, and the terminating party shall send such written notice of termination by certified U.S. Mail, return receipt requested, not less than ninety (90) days prior to the effective date of termination.

If it appears to ODOT that the AGENCY has failed to perform any of the requirements of this contract, or that the AGENCY is in violation of a specific provision of this contract, ODOT may provide the AGENCY with notice of the failure to perform or the violation and shall provide a thirty (30) day period to cure any and all defaults under this contract. During the thirty (30) day cure period, the AGENCY shall incur only those obligations or expenditures which are necessary to enable the AGENCY to continue its operation and achieve compliance as set forth in the notice.

In the event of termination under this Article, the AGENCY shall cease work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report describing the status of all work under this

contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODOT may require.

In the event of termination under this Article, the AGENCY shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODOT. ODOT shall not be liable for any further claims, and the claims submitted by the AGENCY shall not exceed the total amount of consideration stated in this contract. In the event of suspension or termination, any payments made by ODOT in which services have not been rendered by the AGENCY shall be returned to the State.

#### SECTION XI: COMPENSATION

The approved WORK PROGRAM and budget therein referenced in Section VII shall determine the total compensation to be reimbursed by ODOT to the AGENCY for professional and technical services in accordance with the terms and conditions specified in this Agreement. Prior to the beginning of each fiscal year, the WORK PROGRAM and budget shall be provided to ODOT and other state and federal agencies for their approval. Upon receipt of the WORK PROGRAM and budget, ODOT will determine the degree of eligibility for ODOT participation in the cost of various work elements.

The AGENCY shall obtain and provide the local funds to finance its share of the work contemplated by this Agreement. The AGENCY shall initially pay all costs of the work performed.

Reimbursement for the AGENCY's WORK PROGRAM expenses financed through this Agreement will be based on AGENCY initiated costs incurred invoices. The AGENCY shall submit periodic billings, not more frequently than monthly, to ODOT for reimbursement for those charges which are eligible for reimbursement in accordance with ODOT's MPO Administration Manual, ODOT's MPO Contract Audit Circulars, and 2 CFR Part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, each as may be modified. Said Standard Operating Procedure and MPO Contract Audit Circulars in 2 CFR Part 200 are made a part hereof and incorporated by this reference as if fully rewritten herein.

For the purposes of the program:

- (A) **Direct Labor Costs** do not include any type of paid leave or fringe benefits. Direct labor costs must be supported by personnel activity reports maintained in accordance with 2 CFR Part 200.
- (B) **Fringe Benefits Costs** are considered overhead expenses and include employee paid leave as well as other fringe benefits costs. Fringe benefits costs are allocable to direct labor and indirect labor.
- (C) **Indirect Costs** include indirect labor, indirect labor fringe benefits, and other allocable agency indirect costs.
- (D) **Other Direct Costs** include direct expenses necessary to implement the program as provided for in the Scope of Work and Budget, and do not include costs defined in other categories. Other direct costs are based upon actual expenses incurred during the program period.

Any fringe benefit and/or indirect costs rates charged by the AGENCY during the period of performance of this Agreement must be in compliance with a separately executed FRINGE BENEFIT AND INDIRECT COST RATE AGREEMENT between ODOT and the AGENCY.

ODOT shall process the AGENCY's invoices within 30 days, following submission and shall be obligated to pay the AGENCY that amount determined by ODOT to be eligible for payment. If the

invoice submitted to ODOT contains a defect or impropriety, ODOT shall send written notification to the AGENCY within fifteen days after receipt of the invoice. The notice shall contain a description of the defect or impropriety and any additional information necessary to correct the defect or impropriety. If ODOT sends such written notification to the AGENCY, the required payment date shall be thirty days after ODOT receives a proper invoice.

ODOT shall initially pay all costs of the work performed which are incurred by ODOT and may, owing to the multi-funding sources, directly invoice the AGENCY for the cost of services provided by ODOT for expenses within the approved WORK PROGRAM, in accordance with the terms and conditions specified in this Agreement.

In no instance shall reimbursement payments for the cost of the work to be performed exceed the maximum cost shown in the approved WORK PROGRAM and budget without prior written approval of ODOT. Any expenditure in excess of the budget, without prior written approval from ODOT, will be the exclusive responsibility of the AGENCY.

No expenditure shall be included in the cost of the work performed and no part of any funds reimbursed to the AGENCY shall be used by the AGENCY for expenditures or charges that are (1) contrary to the provisions of this Agreement, (2) not directly related to the work performed, (3) incurred without the consent of ODOT, or (4) after written notice of the suspension or termination of any or all of the AGENCY's obligations under this Agreement.

In the event that funding generally made available to ODOT by the U.S. DOT is limited either in scope or magnitude, ODOT reserves the right to mutually negotiate with the AGENCY a revision to this Agreement as an alternative to termination.

## SECTION XII: AUDIT

The AGENCY shall have an independent financial statement audit performed on an annual basis in accordance with 31 U.S.C. Chapter 75, the Single Audit Act of 1984 (with amendment in 1996) and 2 CFR Part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* and ODOT's MPO Contract Audit Circulars, each as may be modified, and any other applicable regulation. Completion or termination of this Agreement shall not alter this obligation.

## SECTION XIII: INSPECTION OF WORK

As often as deemed necessary by ODOT, or U.S. DOT, the AGENCY shall provide ODOT, or U.S. DOT, or both, or any of their duly authorized representatives, upon reasonable notice, proper facilities for the review, inspection, and programmatic audits of the work performed under this Agreement and any records in support of the work performed. This will include provision for office space for ODOT's representative. The AGENCY shall include in all its subcontracts under this Agreement a provision that ODOT, U.S. DOT, or any of their duly authorized representatives, will have full access to and the right to examine any pertinent books, documents, papers, and records of any contractor or consultant involving transactions related to this Agreement for three years from the final payment under this Agreement.

## SECTION XIV: PERSONNEL

The AGENCY agrees to establish a Transportation Section and agrees that all services required in the approved WORK PROGRAM will be performed by the AGENCY or by its contractors or consultants. The AGENCY represents that it has, or will secure, all personnel required to perform the services



under this Agreement. The AGENCY shall submit a listing of such personnel, salary ranges, and person-hours allocated to each work element in the approved WORK PROGRAM and budget to ODOT. None of the AGENCY's personnel, nor any of its contractors or consultants may be current employees of ODOT.

#### SECTION XV: REPORTS, INFORMATION, AND RIGHTS IN DATA

The AGENCY's progress in completing the WORK PROGRAM will be monitored through annual AGENCY progress reports. Each progress report shall include a narrative description and financial expenditure summary for each work element in the approved WORK PROGRAM and budget. ODOT and the U.S. DOT will review the progress reports to assure the AGENCY is making satisfactory progress toward meeting the WORK PROGRAM commitments to justify reimbursement payments. If the progress reports demonstrate the AGENCY is not satisfactorily advancing a WORK PROGRAM product or activity, ODOT will notify the AGENCY in writing and work with the AGENCY to identify corrective actions. The AGENCY will have 30 days from the date of ODOT's written notification to begin good faith efforts to correct the deficiency. Whenever ODOT and the AGENCY are unable to agree on corrective actions, and the situation is such, in the opinion of ODOT, that it indicates there has been gross malfeasance, misfeasance, or nonfeasance by the AGENCY, ODOT may withhold funds until the AGENCY takes corrective actions deemed acceptable to ODOT.

Publication of reports is limited to those shown in the approved WORK PROGRAM unless otherwise authorized by ODOT or the U.S. DOT and only after satisfactory resolution of all comments made by these agencies. Acknowledgment of the cooperative effort of appropriate parties shall be made in each report; for example, "Prepared in cooperation with the U.S. Department of Transportation's Federal Highway Administration and Federal Transit Administration, the Ohio Department of Transportation, and local communities." A disclaimer statement, where appropriate and requested by ODOT, shall also be included; for example, "The contents of this report reflect the views of the AGENCY/author, which is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the official view and policies of ODOT and/or the U.S. DOT. This report does not constitute a standard, specification, or regulation."

The foregoing limitations are not applicable to dissemination of data necessary to perform a service function of the AGENCY. Such dissemination of data shall be made in accordance with the AGENCY's established policy contained in the approved WORK PROGRAM.

The AGENCY shall retain the copyright for all documents, data, materials, information, processes, studies, reports, surveys, proposals, plans, codes, scientific information, technological information, regulations, maps, equipment, charts, schedules, photographs, exhibits, software, software source code, documentation, and other materials and property that are prepared, developed, or created under or in connection with this Agreement. The AGENCY agrees to grant to ODOT and the U.S. DOT, a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, disclose, distribute, or otherwise use, and to authorize others to use, for State or Federal Government purposes: (a) the copyright in any work developed under this Agreement; and (b) any rights of copyright to which the AGENCY purchases ownership for this Agreement.

The patent rights provisions of 35 U.S.C Section 1 et seq., and CFR Title 37 regarding rights to inventions are made a part hereof and incorporated by this reference as if fully rewritten herein.

## SECTION XVI: NON-DISCRIMINATION

To effectuate compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as amended, the following notice to the AGENCY regarding federal aid recipients applies.

During the performance of this Agreement, the AGENCY for itself, its assignees and successors in interest agrees as follows:

1. AGENCY will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex (including pregnancy, gender identification and sexual orientation), national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, or future). Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.
2. AGENCY agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. AGENCY will, in all solicitations or advertisements for employees placed by or on behalf of AGENCY, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex (including pregnancy, gender identification and sexual orientation), national origin (ancestry), disability, genetic information, age (40-years or older), sexual orientation, or military status (past, present, or future).

AGENCY agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec 2000. AGENCY shall not discriminate on the basis of race, color, or national origin in its programs or activities. The Director of Transportation may monitor the AGENCY's compliance with Title VI.

3. Compliance with Regulations: The AGENCY (hereinafter includes consultants) will comply with the regulations relative to nondiscrimination in Federally-assisted programs of the U.S. DOT, 49 CFR Part 21, as amended, (hereinafter referred to as "Regulations"), which are herein incorporated by reference and made a part of this Agreement.
4. Nondiscrimination: The AGENCY, with regard to the work performed by it after the execution of this Agreement, will not discriminate on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age (40 years or older), disability, low-income status, or limited English proficiency in the selection and retention of contractors and consultants, including in the procurement of materials and leases of equipment. The AGENCY will not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5 including employment practices when the contract covers a program set forth in Appendix B to Part 21 of the Regulations.
5. Solicitations for Contracts, including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the AGENCY for work to be performed under a contract, including procurement of materials or equipment, each potential contractor or supplier will be notified by the AGENCY of the AGENCY's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual

orientation), age (40-years or older), disability, low-income status, or limited English proficiency.

6. Information and Reports: The AGENCY will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by ODOT, FHWA, or FTA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of the AGENCY is in the exclusive possession of another who fails or refuses to furnish this information, the AGENCY will so certify to ODOT, FHWA or FTA as appropriate, and will set forth what efforts it has made to obtain the information.
7. Sanctions for Noncompliance: In the event of the AGENCY's noncompliance with the nondiscrimination provisions of this Agreement, ODOT will impose such Agreement sanctions as ODOT, FHWA, or FTA may determine to be appropriate, including, but not limited to:
  - a. withholding of payments to the AGENCY under the Agreement until the AGENCY complies, and/or
  - b. cancellation, termination, or suspension of the Agreement, in whole or in part.
8. Incorporation of Provisions: The AGENCY will include the provisions of paragraphs one through nine in every contract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The AGENCY will take such action with respect to any contracts or procurement as ODOT, FHWA, or FTA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the AGENCY becomes involved in, or is threatened with, litigation with a contractor, consultant, or supplier as a result of such direction, the AGENCY may request ODOT to enter into such litigation to protect the interests of ODOT, and, in addition, the AGENCY may request the United States to enter into such litigation to protect the interest of the United States.
9. During the performance of this contract, the AGENCY, for itself, its assignees, and successors in interest (hereinafter referred to as the "AGENCY", which includes consultants) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-Aid programs and projects)
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 *et seq.*) (prohibits discrimination on the basis of sex)
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability) and 49 CFR Part 27
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age)

- Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex)
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of Federal-Aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not)
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities)
- The Federal Aviation Administration’s Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex)
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations)
- Executive Order 13166, Improving Access to Services for People with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100)
- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended (prohibits discrimination in the sale, rental, and financing of dwellings on the basis of race, color, religion, sex, national origin, disability, or familial status (presence of child under the age of 18 and pregnant women))
- Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. 1681 *et seq.*) (prohibits discrimination on the basis of sex in education programs or activities)
- Uniformed Services Employment and Reemployment Rights Act (USERRA) (38 U.S.C. 4301-4333) (prohibits discrimination on the basis of present, past or future military service).
- Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. 2000 ff)

## SECTION XVII: DISADVANTAGED BUSINESS ENTERPRISE

It is the policy of the AGENCY that disadvantaged businesses, as defined by 49 CFR, Part 26, shall have an opportunity to participate in the performance of MPO contracts in a nondiscriminatory environment. The objectives of the Disadvantaged Business Enterprise (DBE) Program are to ensure nondiscrimination in the award and administration of contracts, ensure firms fully meet eligibility standards, help remove barriers to participation, create a level playing field, assist in development of a firm so it can compete successfully outside of the program, provide flexibility, and ensure narrow tailoring of the program.

The AGENCY and its consultants shall take all necessary and reasonable steps to ensure that disadvantaged businesses have an opportunity to compete for and perform the contract work of the AGENCY in a nondiscriminatory environment.

AGENCY agrees not to discriminate on the basis of race, color, national origin, or sex (including pregnancy, gender identification and sexual orientation) in the performance of this Agreement. AGENCY agrees to carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. AGENCY understands that failure to carry out these requirements is a material breach of this Agreement, which may result in the termination of this

Agreement or such other remedy as the Ohio Department of Transportation deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or, (4) Disqualifying the AGENCY from future bidding as non-responsible.

#### SECTION XVIII: PROHIBITED INTEREST

AGENCY agrees that it has read and will comply with 23 CFR 1.33, and Ohio Revised Code sections 2921.42 and 2921.43.

No member, officer, or employee of ODOT shall have any personal interest, direct or indirect, in this Agreement or the proceeds thereof.

No personnel of AGENCY who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this contract, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to ODOT in writing. Thereafter, he or she shall not participate in any action affecting the work under this contract, unless the State shall determine that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

#### SECTION XIX: INTEREST OF MEMBERS OF CONGRESS

No member of the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefits arising therefrom.

#### SECTION XX: DRUG-FREE WORKPLACE

The AGENCY agrees to comply with all applicable state and federal laws regarding drug-free workplace. The AGENCY shall make a good faith effort to ensure that all AGENCY employees, while working, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

#### SECTION XXI: CONDUCT, ETHICS AND INTEGRITY

The AGENCY agrees that they are currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.

Further, the AGENCY agrees, by its signature hereto, that to the best of its knowledge, information, and belief, that it will not engage or otherwise employ or utilize or award contracts to contractors or consultants that, or have principals who:

1. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or AGENCY;

2. Within a three year period immediately preceding the date on which this Agreement was executed, have been convicted of or had a civil judgment against them for commission of fraud or a felony offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
3. Are presently indicted for or otherwise criminally or civilly charged by a government entity with commission of any felony;
4. Within a three-year period immediately preceding the date on which this Agreement was executed, have had one or more public transactions terminated for cause or default; and
5. Have a conflict of interest as covered in 23 CFR 1.33, and Ohio Revised Code sections 2921.42 and 2921.43.

The AGENCY certifies or affirms the truthfulness and accuracy of the contents of the statements submitted by this certification and understands the provisions of 31 U.S.C. Sections 3801 et seq., are applicable thereto.

#### SECTION XXII: RESTRICTIONS ON LOBBYING

The AGENCY agrees to comply with the provisions of 31 U.S.C. Section 1352, which prohibit the use of federal funds to lobby any official or employee of any federal AGENCY, or member or employee of Congress; and to disclose any lobbying activities in connection with federal funds.

The AGENCY certifies by its signature hereto that:

1. No funds appropriated by the United States have been paid or will be paid by or on behalf of the AGENCY to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with awarding any federal contract, making any federal grant, making any federal loan, entering into of any cooperative agreement, and extending, continuing, renewing, amending or modifying any federal contract, grant, loan or cooperative agreement.
2. If funds, other than those appropriated by the United States have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the AGENCY shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The AGENCY shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. The AGENCY's certification is a prerequisite imposed by 31 U.S.C. Section 1352, for making or entering into this Agreement. Any person who fails to file the

required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### SECTION XXIII: OHIO ELECTIONS LAW

The AGENCY affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.

#### SECTION XXIV: TRADE

Pursuant to Division (B) of Section 9.76 of the Revised Code, AGENCY warrants that AGENCY is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Agreement.

#### SECTION XXV: INDEMNIFICATION/HOLD HARMLESS

To the extent allowed by law, AGENCY shall indemnify and hold harmless ODOT for any and all claims, damages, lawsuits, costs, judgments, expenses and any other liabilities which arise as a result of the services performed by the AGENCY, or its employees or agents which is in any way connected with or based upon the services rendered in performing this Agreement.

#### SECTION XXVI: STATE AUDIT FINDINGS

AGENCY affirmatively represents to ODOT that it is not subject to a Finding for Recovery under R.C. 9.24, or that it has taken the appropriate remedial steps required under R.C. 9.24 or otherwise qualifies under that section. AGENCY agrees that if this representation is deemed to be false, the Agreement shall be void *ab initio* as between the parties to this Agreement, and any funds paid by ODOT hereunder shall be immediately repaid to ODOT, or an action for recovery may be immediately commenced by ODOT for recovery of said funds.

#### SECTION XXVII: DEBARMENT

AGENCY represents that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. 5513.06 or R.C. 125.25. If this representation is found to be false, this Agreement is void *ab initio* and AGENCY shall immediately repay to ODOT any funds paid under this Agreement.

#### SECTION XXVIII: DISPUTES

The AGENCY agrees that all disputes concerning questions of fact in connection with the work and not otherwise disposed of by the specific terms of this Agreement or by mutual agreement among the parties hereto shall be resolved as follows:

The AGENCY shall notify ODOT in writing within 60-days following any determination by ODOT which in the estimation of the AGENCY is in material conflict with facts concerning the subject matter. In such notification, the AGENCY shall present evidentiary matters as may support the AGENCY's position and shall request a review of said previous determination. Within a reasonable period of time, ODOT shall cause the circumstances and facts be reappraised for the purposes of redetermination.

The AGENCY hereby agrees that ODOT will decide such questions which may arise including, for example, the quality or acceptability of materials furnished and work performed, the rate of progress of the work, the acceptable fulfillment of the Agreement on the part of the AGENCY, matters concerning compensation, and all other matters in dispute relating to facts in connection with this Agreement and the services or work to be performed thereunder.

#### SECTION XXIX: COMPLIANCE WITH LAWS AND PERMITS

The AGENCY shall give all notices and comply with all existing and future federal, state and municipal laws, ordinances, rules regulations, and orders of any public authority bearing on the performance of the Agreement, including but not limited to, the laws referred to in these provisions of the Agreement and the other Agreement documents. If the Agreement documents are at variance therewith in any respect, any necessary changes shall be incorporated by appropriate modification. Upon request, the AGENCY shall furnish to ODOT certificates of compliance with all such laws, orders, and regulations. AGENCY accepts full responsibility for payment of all taxes including without limitation, unemployment compensation insurance premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by the AGENCY in the performance of the work authorized by this Agreement. ODOT shall not be liable for any taxes under this Agreement.

#### SECTION XXX: COUNTERPARTS

This Agreement may be executed in more than one (1) counterpart, and each counterpart shall be deemed and considered an original instrument for any and all purposes.

#### SECTION XXXI: CHANGE OR MODIFICATION

This Agreement constitutes the entire agreement between the parties, and any changes or modifications to this contract shall be made and agreed to in writing.

#### SECTION XXXII: GOVERNING LAW/SEVERABILITY

This Agreement and any claims arising out of this Agreement shall be governed by the laws of the United States and the State of Ohio. Any provision of this Agreement prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Contract or the performance thereunder shall be brought only in the courts of Ohio, and the AGENCY hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

If any provision of this Agreement or application of any such provision shall be held by a court of competent jurisdiction to be contrary to law, the remaining provisions shall remain in full force and effect.

(The remainder of this page is left blank intentionally.)



### SECTION XXXIII: SIGNATURES

Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature of any other party delivered in such a manner as if such signature were an original.

The parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

<b>OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS</b>	<b>STATE OF OHIO OHIO DEPARTMENT OF TRANSPORTATION</b>
By: <u>Mark Policinski</u> <small>Mark Policinski (Apr 13, 2023 15:18 EDT)</small>	By: <u>Jack Marchbanks/JWG</u>
Mark R. Policinski, Executive Director	Jack Marchbanks, Ph.D. Director
Date: <b>Apr 13, 2023</b>	Date: <b>6/30/23</b>

**RESOLUTION**  
**OF THE BOARD OF DIRECTORS OF THE**  
**OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS**  
**CONCERNING APPROVAL OF THE**  
**OKI UNIFIED PLANNING WORK PROGRAM FOR FISCAL YEAR 2025**

**WHEREAS**, the Ohio-Kentucky-Indiana Regional Council of Governments has prepared a Unified Planning Work Program for Fiscal Year 2025 in defining a scope of work to meet the needs of this region for which funding can be sought from the United States Department of Transportation, the State of Ohio, the Commonwealth of Kentucky, and the State of Indiana; and

**WHEREAS**, the Unified Planning Work Program for Fiscal Year 2025 has been reviewed by appropriate state and federal agencies; and

**WHEREAS**, Applicant is authorized by KRS 96A to apply for and accept grants of money to assist in the implementation of a transit system or for transportation planning in Boone, Campbell and Kenton; and

**WHEREAS**, the Unified Planning Work Program for Fiscal Year 2025 hereby certifies that all requirements of 23 CFR, Part 450 relating to the Metropolitan Transportation Planning Process have been met; Now, therefore;

**BE IT RESOLVED**, that the Board of Directors of the Ohio-Kentucky-Indiana Regional Council of Governments, at its regular public meeting of April 11, 2024, hereby approves the OKI Unified Planning Work Program for Fiscal Year 2025.

  
\_\_\_\_\_  
JOSH GERTH, FIRST VICE PRESIDENT

**AGREEMENT BETWEEN  
KENTUCKY TRANSPORTATION CABINET  
AND  
OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS  
URBAN TRANSPORTATION PLANNING; \$716,000**

**This AGREEMENT**, made and entered into by and between the Commonwealth of Kentucky, Transportation Cabinet, hereinafter referred to as the CABINET, and the Ohio-Kentucky-Indiana Regional Council of Governments, a 501(c)(3) organization, hereinafter referred to as the RECIPIENT,

**WITNESSETH**

**WHEREAS**, 23 U.S.C. §104 authorizes planning funds to be appropriated for the purpose of carrying out the requirements of 23 U.S.C. §134 and these funds shall be made available by the CABINET to the metropolitan planning organizations designated by the Commonwealth of Kentucky as being responsible for carrying out the provisions of 23 U.S.C. §134; and

**WHEREAS**, the RECIPIENT is the designated metropolitan planning organization staff agency responsible for carrying out the provisions of 23 U.S.C. §134 for the Cincinnati-Northern Kentucky Urbanized Area; and

**WHEREAS**, the Federal-aid Highway Program is a state administered reimbursement program being conducted by the CABINET through the Division of Planning and the RECIPIENT shall carry out this AGREEMENT in accordance with all applicable Federal and State laws and regulations including but not limited to all of 23 U.S.C., 49 U.S.C., 23 CFR, and 49 CFR; and

**WHEREAS**, all Federal-aid projects must also specifically comply with the Federal Funding Accountability and Transparency Act (Attachment A), Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990 (ADA); and

**WHEREAS**, the RECIPIENT has submitted a Unified Planning Work Program (UPWP) to the CABINET for approval, and the UPWP and the proposed budget contained within are incorporated within this AGREEMENT by reference; and

**WHEREAS**, the RECIPIENT is requesting Federal highway funds in the amount of \$572,800 (80% Federal share) and the RECIPIENT will provide Local funds in the amount of \$107,400 (15% Local share) and the CABINET will provide State funds in the amount of \$35,800 (5% State share) for a total contract amount of \$716,000 to carry out the PROJECT, defined as activities specified in the UPWP, for the period of July 1, 2024 through June 30, 2025; and

**WHEREAS**, the CABINET is willing to provide these Federal funds to the RECIPIENT subject to annual Federal obligation limitations, the amount of which shall be 80% of the eligible costs associated with the PROJECT,

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein set

forth, the CABINET and the RECIPIENT hereby agree as follows:

**Section 1. Scope** The RECIPIENT shall undertake and complete the PROJECT, as reviewed and approved by the CABINET, in accordance with the terms and conditions of this AGREEMENT and all applicable regulations or directives issued by the CABINET or Federal Highway Administration (FHWA). Adjustments in the PROJECT may be necessary; however, all changes must have prior written approval of the CABINET.

**Section 2. Duration** It is understood by both contracting parties that the effective date of the AGREEMENT is July 1, 2024. Work is not to begin until a Notice to Proceed is issued by the CABINET. The RECIPIENT shall complete the PROJECT by June 30, 2025. An extension of this AGREEMENT beyond the biennium in which it became effective is contingent upon the appropriation of funding by the Legislature. Nothing in this AGREEMENT should be construed to prevent the duration of the PROJECT from being changed by mutual written agreement of the CABINET and the RECIPIENT.

This AGREEMENT is contingent upon the continued availability of appropriated Federal funds. If the funds to be used for this AGREEMENT become unavailable to the CABINET for any reason, including the Kentucky General Assembly's failure to appropriate funds, operation of law, or a reduction of Federal funds, further reimbursement of PROJECT expenditures may be denied, the timeline extended, or the scope amended by the CABINET either in whole or in part without penalty. Denial of further reimbursement or termination, extension, or amendment of the PROJECT because of interruption of the appropriated funding is not a default or breach of this AGREEMENT by the CABINET nor may such denial, termination, extension, or amendment give rise to a claim against the CABINET.

**Section 3. Funding** It is understood that Federal funds for the PROJECT are being provided as authorized under 23 U.S.C., specifically through the Catalog of Federal Domestic Assistance Program Number 20.205 – Highway Planning and Construction. It is the responsibility of the CABINET to obtain these funds from FHWA. These funds may be authorized by either a single authorization or by a series of authorizations. The funds will be taken from the apportionment of metropolitan planning (PL) funds as allocated by the CABINET and subject to approval by FHWA. The total Federal share of the PROJECT cost shall not exceed \$572,800 unless approved in writing by the CABINET. Federal funds shall be matched as follows: 80% Federal - 20% non-Federal match. The RECIPIENT shall provide a 15% match and the CABINET shall provide a 5% match for a total contract amount of \$716,000. The RECIPIENT agrees to provide local matching funds in an amount sufficient, together with the allocated Federal and State funds, if applicable, to assure funding for completion of the PROJECT. The Federal share and State share, if applicable, of costs are payable monthly by the CABINET upon presentation and approval of two (2) copies of a reimbursement request, including an invoice and adequate

documentation. All reimbursement requests shall correspond with the expense categories in the PROJECT budget and shall be submitted to the CABINET within thirty (30) days after the end of the reporting period. All invoice amounts submitted for each expense category shall be representative of and closely approximate the actual work done, as reported in the narrative progress report. The CABINET may withhold payment of an invoice until the RECIPIENT submits accompanying backup information, such as narrative progress reports, time sheets, receipts, cancelled checks, etc., needed to justify the payment of the invoice. The CABINET or FHWA may require additional documentation at their discretion.

It is understood that the value and character of any "in-kind" services contributed toward the local match must be approved by the CABINET and FHWA prior to being credited to the PROJECT. All "in-kind" services must meet CABINET and FHWA eligibility and applicability requirements.

It is further understood that revisions in the PROJECT budget may be necessary and may be allowed if they do not exceed the total sum set out above, subject to the prior written approval of the CABINET. In order for the RECIPIENT to be reimbursed for costs that are not listed in the PROJECT budget, the RECIPIENT must obtain written approval from the CABINET prior to incurring these costs.

Regardless of whether the contract period is extended, unexpended funds at the end of this AGREEMENT period shall not be carried forward to a future AGREEMENT.

**Section 4. Allowable Costs** The costs referred to in this AGREEMENT shall be comprised of the allowable direct costs incident to the performance of the PROJECT plus allowable indirect costs, less applicable credit, to be determined in accordance with the standards set forth in the Federal-Aid Policy Guide and Subpart E of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

If indirect costs are to be expended against the PROJECT, the RECIPIENT shall provide to the CABINET a Cost Allocation Plan (CAP). Upon the CABINET's review and approval of the CAP, indirect charges will be eligible for reimbursement. The CABINET and/or FHWA reserve the right to require additional documentation.

Costs incurred in carrying out certain elements of the PROJECT which must be completed without regard for state political boundaries are prorated to each state on the basis of a population split as shown by the latest available United States census data for urbanized areas.

**Section 5. Purchase of Project Equipment and Property** The purchase of all Equipment or Property financed in whole or in part pursuant to this AGREEMENT shall be in accordance with applicable state laws and 2 CFR Part 200. The RECIPIENT shall maintain property records for equipment costing over \$5,000 purchased with Federal funds and perform a physical inventory of equipment. The following required provision shall be included in any advertisement or

invitation to bid for any procurement under this AGREEMENT: "Statement of Financial Assistance: This contract is subject to a financial assistance contract between the State of Kentucky and the Federal Highway Administration."

**Section 6.** Assignability The RECIPIENT shall not assign a portion of the work to be performed under this AGREEMENT, or execute a contract or amendment thereto, or obligate itself with a third party with respect to its rights and responsibilities under this AGREEMENT without the prior written concurrence of the CABINET. The procurement of a professional service shall follow the guidelines identified in the CABINET's *Federal-Aid Highway Program Project Development Guide for Local Public Agencies*. Solicitation for and execution of a subcontract between the RECIPIENT and a third party for work included in the PROJECT must have prior written approval of the CABINET. A third party contract must comply with the regulations outlined in this AGREEMENT. The RECIPIENT shall follow all applicable State and Federal statutes and regulations when assigning work under this AGREEMENT, including but not limited to KRS 45A, 40 U.S.C. Chapter 11, and the procurement standards specified in 2 CFR.

**Section 7.** Reporting and Records The RECIPIENT shall comply with all reporting requirements outlined by the CABINET and FHWA. The RECIPIENT shall submit an annual Performance and Expenditure Report, if required, to the CABINET within 80 calendar days following the end of the RECIPIENT's fiscal year. The recording and reporting of a purchase shall be in accordance with the requirements of the Kentucky Revised Statutes, including KRS 45A, and applicable Federal and CABINET guidelines.

All charges under this AGREEMENT shall be supported by properly documented invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges. The CABINET or FHWA may require additional documentation at their discretion.

All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this AGREEMENT shall be clearly identified, readily accessible, and to the extent feasible, kept separate and apart from all other such documents. The RECIPIENT shall permit the CABINET and/or the FHWA to conduct periodic site visits to ascertain compliance with Federal and State regulations.

The RECIPIENT shall retain all records for a period of three (3) years from the date of project closure in FMIS, if applicable, or if not applicable, for a period of three (3) years from the date of submission of the final expenditure report, defined as the final invoice and accompanying backup documentation, pursuant to 2 CFR §200.333.

**Section 8.** Audit and Inspection The RECIPIENT shall permit the CABINET, the Finance and Administration Cabinet, the Auditor of Public Accounts, the Legislative Research Commission, the Comptroller General of the United States and the Secretary of the United States Department of Transportation, or their authorized representatives, to inspect and approve all

phases of the PROJECT and all relevant PROJECT data and records; and the RECIPIENT shall also permit representatives of these agencies to review audit(s) performed by the RECIPIENT or other entity and to audit the books and accounts of the RECIPIENT pertaining to the PROJECT.

The RECIPIENT shall provide the CABINET with two (2) copies of audits or reviews pursuant to Subpart F of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," within nine (9) months of its fiscal year end or within thirty (30) days after the audit is completed, whichever occurs first.

The RECIPIENT hereby acknowledges it is responsible to inform an entity it intends to hire or use as a contractor, as defined in KRS 45A.030, that the RECIPIENT, the CABINET, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to the entity's books, documents, papers, records, or other evidence which are directly pertinent to this AGREEMENT for the purpose of financial audit or program review. Furthermore, all books, documents, papers, records, or other evidence provided to the RECIPIENT, the CABINET, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission which are directly pertinent to the contract shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of the contract. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of information which would otherwise be subject to public release if a state government agency were providing the service.

**Section 9. Hold Harmless Clause** To the extent permitted by law, the RECIPIENT shall indemnify and hold harmless the FHWA and the CABINET and all of its officers, agents, and employees from all suits, actions, or claims of character arising from injuries, payments, or damages received or claimed by any person, persons, or property due to the activities of the RECIPIENT, its subcontractors, agents or employees, in connection with their services under this AGREEMENT.

**Section 10. Non-Discrimination and Equal Employment Opportunity** The RECIPIENT shall comply with all non-discriminatory requirements imposed by Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and all applicable Federal and State requirements, including Executive Orders. The RECIPIENT will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The RECIPIENT further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable Federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The RECIPIENT agrees to provide, upon request, needed reasonable accommodations. The

RECIPIENT will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The RECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

The RECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of the RECIPIENT, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The RECIPIENT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the RECIPIENT's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The RECIPIENT will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The RECIPIENT will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor. The RECIPIENT will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the RECIPIENT's noncompliance with the nondiscrimination clauses of this AGREEMENT or with any of the said rules, regulations or orders, this AGREEMENT may be cancelled, terminated or suspended in whole or in part and the RECIPIENT may be declared ineligible for further government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The RECIPIENT will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order



No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The RECIPIENT will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the RECIPIENT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the RECIPIENT may request the United States to enter into such litigation to protect the interests of the United States.

**Section 11. Interest of Members of or Delegates to Congress** No funding has been or will be paid to a member of or delegate to the Congress of the United States in connection with the awarding of this AGREEMENT, nor shall a member of or delegate to the Congress of the United States receive a benefit arising out of this AGREEMENT.

**Section 12. Prohibited Interest** No member, officer, or employee of the CABINET or of the RECIPIENT shall have an interest, direct or indirect, in this AGREEMENT or the proceeds thereof as established in KRS 45A.340.

**Section 13. Covenant Against Contingent Fees** The RECIPIENT warrants that no person, elected official, selling agency or other organization has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warrant, the CABINET shall have the right to annul this AGREEMENT without liability or, at its discretion, to deduct from the compensation, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

**Section 14. Applicable Laws** This AGREEMENT shall be in accordance with all Federal laws and the laws of the Commonwealth of Kentucky.

**Section 15. Americans with Disabilities Act** The RECIPIENT agrees to comply with the provisions of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, and other applicable Federal regulations relating hereto, issued by the U.S. Department of Transportation. The ADA prohibits discrimination against otherwise qualified individuals under a program or activity receiving Federal financial assistance covered by this AGREEMENT, and imposes requirements that affect the design, construction, and maintenance of all transportation projects to provide access to all facilities.

**Section 16. Disadvantaged Business Enterprise (DBE) Requirements** The RECIPIENT agrees to comply with the DBE requirements contained within 49 CFR Part 26.

DBE Assurance: The RECIPIENT, and all contractors or subcontractors, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The RECIPIENT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the RECIPIENT to carry out

these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the CABINET deems appropriate. Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include this provision.

**DBE Prompt Payment Requirement:** The RECIPIENT must abide by 49 CFR §26.29 with regard to prompt payment mechanisms and retainage payment. If applicable, all contractors must be paid within ten (10) working days after the RECIPIENT has been paid by the CABINET for work performed or services delivered. No recipient or contractor may withhold retainage on a subcontract of this AGREEMENT.

**Section 17. Disputes** Disputes concerning a question of fact in connection with the work not disposed of by AGREEMENT between the RECIPIENT and the CABINET shall be referred to the Secretary of the Transportation Cabinet of the Commonwealth of Kentucky, or his duly authorized representative, whose decision shall be final.

**Section 18. Campaign Finance** If applicable, the undersigned representative of the RECIPIENT swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the entity which he/she represents has knowingly violated provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the entity which he/she represents will not violate provisions of the campaign finance laws of the Commonwealth.

**Section 19. Violations** If applicable, pursuant to KRS 45A.485, the RECIPIENT and any subcontractors performing work under this AGREEMENT, shall reveal to the CABINET the final determination of a violation within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342. These statutes relate to the state corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health law, unemployment compensation law, and workers compensation insurance law, respectively.

The RECIPIENT agrees to be in continuous compliance, and will require any subcontractors performing work under this AGREEMENT to be in compliance, with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 for the duration of this AGREEMENT. Failure to reveal a final determination of a violation of the referenced statutes or to comply with these statutes for the duration of the AGREEMENT shall be grounds for the termination of funding for the AGREEMENT and disqualification of the RECIPIENT from eligibility for future state contracts for a period of two (2) years.

**Section 20. Personal Service Contracts and Memoranda of Agreement** If this AGREEMENT comes under the purview of KRS 45A.690 - 45A.725, payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after disapproval of the Government Contract Review Committee unless the decision of the Committee is overridden by the Secretary of the Finance and Administration Cabinet or agency

head, if the agency has been granted delegation authority.

**Section 21. Debarment and Suspension** A contract award must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 and 12689. SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**Section 22. Clean Air Act and Federal Water Pollution Control Act** The RECIPIENT shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**Section 23. Boycott Provisions** The RECIPIENT represents that, pursuant to KRS 45A.607, they are not currently engaged in, and will not for the duration of the contract engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which Kentucky can enjoy open trade. The term "boycott" does not include actions taken for bona fide business or economic reasons, or actions specifically required by federal or state law.

**Section 24. Lobbying** The RECIPIENT represents that they, and any subcontractor performing work under the contract, have not violated the agency restrictions contained in KRS 11A.236 during the previous ten (10) years, and pledges to abide by the restrictions set forth in such statute for the duration of the contract awarded. The RECIPIENT further represents that, pursuant to KRS 45A.328, they have not procured an original, subsequent, or similar contract while employing an executive agency lobbyist who was convicted of a crime related to the original, subsequent, or similar contract within five (5) years of the conviction of the lobbyist.

**Section 25. Termination** The CABINET reserves the right to terminate all reimbursements under this AGREEMENT when deemed to be in the best interest of the CABINET by giving thirty (30) days written notice of such termination to the RECIPIENT. If reimbursement under this AGREEMENT is terminated by reason other than violation of this AGREEMENT or applicable law by the RECIPIENT, its agents, employees and/or contractors, the CABINET shall reimburse the RECIPIENT according to the terms of this AGREEMENT for all expenses incurred under this AGREEMENT to the date of the termination of reimbursement. The RECIPIENT may seek to terminate its obligations under this AGREEMENT when deemed to be in its best interest by giving thirty (30) days written notice to the CABINET. If the CABINET agrees to allow the RECIPIENT to terminate its obligations under this AGREEMENT, the RECIPIENT shall reimburse the CABINET for all federal funding reimbursement made under this AGREEMENT.

**Section 26. Agreement Change** Proposed changes in this AGREEMENT shall be at the mutual consent of the RECIPIENT and the CABINET and be evidenced in writing.

**Section 27. Resolution** If applicable, the RECIPIENT shall pass a resolution authorizing the undersigned representative of the RECIPIENT to sign this AGREEMENT on behalf of the RECIPIENT and a copy of the resolution shall be attached to the AGREEMENT and returned to the CABINET prior to full execution of this AGREEMENT.

**Section 28. Severability** In the event that any Section of this AGREEMENT is declared invalid or is unenforceable, the remainder of this AGREEMENT shall remain in full force and effect and all responsibilities and duties of the parties shall be performed as set forth herein.

**IN TESTIMONY WHEREOF**, the parties have hereto caused this AGREEMENT to be executed upon signature by their proper officers and representatives:

**OHIO-KENTUCKY-INDIANA REGIONAL  
COUNCIL OF GOVERNMENTS**

Mark Policinski  
Mark.Policinski@okigov.org (Apr 11, 2024 13:47 EDT)  
**EXECUTIVE DIRECTOR**

**DATE:** 04/11/2024

**COMMONWEALTH OF KENTUCKY  
TRANSPORTATION CABINET**

DocuSigned by:  
AS  
90C83257B04544E  
**SECRETARY, TRANSPORTATION  
CABINET**

**DATE:** 6/13/2024

**APPROVED AS TO FORM & LEGALITY**

DocuSigned by:  
Will Fogle  
78ED024141D14BD  
**OFFICE OF LEGAL SERVICES  
TRANSPORTATION CABINET**

**DATE:** 6/10/2024

Last updated: March 11, 2024

**ATTACHMENT A – FEDERAL FUNDING ACCOUNTABILITY & TRANSPARENCY ACT**

<b>Federal Funding Accountability and Transparency Act</b> <b>* AGREEMENT CAN NOT BE EXECUTED UNLESS ALL YELLOW BOXES ARE COMPLETED *</b>					
<b>1. SUB-AWARDEE</b> Name: Ohio-Kentucky-Indiana Regional Council of Governments Address: 720 E. Pete Rose Way, Suite 420 Cincinnati, OH 45202					
<b>2. DUNS NUMBER</b> 072864770	Unique 9 digit number issued by Dun & Bradstreet. To obtain a DUNS number (if you agency does not already have one) please access: <a href="http://fedgov.dnb.com/webform">http://fedgov.dnb.com/webform</a>				
<b>3. CCR REGISTRATION (CAGE code)</b> 4HH58	Unique 5 digit number issued by the Central Contractor Registration. To obtain a CCR number (if your agency does not already have one) please access: <a href="https://www.bpn.gov/ccr/default.aspx">https://www.bpn.gov/ccr/default.aspx</a>				
<b>4. TOTAL COMPENSATION AND NAMES OF TOP 5 EXECUTIVES</b>					
All agencies are required to report the Top 5 Highly Compensated officers for their agency if they meet <u>BOTH</u> of the following criteria: A) More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000 annually, and B) Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC)					
<b>NO- Does not meet both criteria A &amp; B</b>	No If no, please skip to box 5				
<b>YES- Meets both criteria A &amp; B</b>	If yes, please fill out 1-5 with Executive name and compensation.				
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Executive Name	Compensation				
<b>5. PREPARED BY:</b>					
Name: Katie Hannum Title: Director of Finance	<b>DATE:</b> 4-11-2024				
Additional information about the Federal Funding Accountability Transparency Act (FFATA) can be found at: <a href="http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf">http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf</a> <a href="http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf">http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf</a>					

**AGREEMENT BETWEEN  
KENTUCKY TRANSPORTATION CABINET  
AND  
OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS  
URBAN TRANSPORTATION PLANNING; \$279,625**

**This AGREEMENT**, made and entered into by and between the Commonwealth of Kentucky, Transportation Cabinet, hereinafter referred to as the CABINET, and the Ohio-Kentucky-Indiana Regional Council of Governments, a 501(c)(3) organization, hereinafter referred to as the RECIPIENT,

**WITNESSETH**

**WHEREAS**, 23 U.S.C. §133 established a surface transportation program authorizing Federal funds to be appropriated for projects specified in 23 U.S.C. §133 and an allocation of these funds shall be made available by the CABINET to urbanized areas over 200,000 population; and

**WHEREAS**, the Federal-aid Highway Program is a state administered reimbursement program being conducted by the CABINET through the Division of Planning and the RECIPIENT shall carry out this AGREEMENT in accordance with all applicable Federal and State laws and regulations including but not limited to all of 23 U.S.C., 49 U.S.C., 23 CFR, and 49 CFR; and

**WHEREAS**, all Federal-aid projects must also specifically comply with the Federal Funding Accountability and Transparency Act (Attachment A), Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990 (ADA); and

**WHEREAS**, the RECIPIENT has submitted a Unified Planning Work Program (UPWP) to the CABINET for approval, and the UPWP and the proposed budget contained within are incorporated within this AGREEMENT by reference; and

**WHEREAS**, the RECIPIENT is requesting Federal highway funds in the amount of \$223,700 (80% Federal share) and the RECIPIENT will provide Local funds in the amount of \$55,925 (20% Local share) for a total contract amount of \$279,625 to carry out the PROJECT, defined as Land Use Planning, Fiscal Impact Analysis, Regional Clean Air Program, and Rideshare Program activities specified in the UPWP, for the period of July 1, 2024 through June 30, 2025; and

**WHEREAS**, the PROJECT is part of the approved Cincinnati metropolitan planning organization's Transportation Improvement Program, if required, and the CABINET is willing to provide these Federal funds to the RECIPIENT subject to annual Federal obligation limitations, the amount of which shall be 80% of the eligible costs associated with the PROJECT,

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein set forth, the CABINET and the RECIPIENT hereby agree as follows:

**Section 1. Scope** The RECIPIENT shall undertake and complete the PROJECT, as reviewed and approved by the CABINET, in accordance with the terms and conditions of this AGREEMENT and all applicable regulations or directives issued by the CABINET or Federal Highway Administration (FHWA). Adjustments in the PROJECT may be necessary; however, all changes must have prior written approval of the CABINET.

**Section 2. Duration** It is understood by both contracting parties that the effective date of the AGREEMENT is July 1, 2024. Work is not to begin until a Notice to Proceed is issued by the CABINET. The RECIPIENT shall complete the PROJECT by June 30, 2025. An extension of this AGREEMENT beyond the biennium in which it became effective is contingent upon the appropriation of funding by the Legislature. Nothing in this AGREEMENT should be construed to prevent the duration of the PROJECT from being changed by mutual written agreement of the CABINET and the RECIPIENT.

This AGREEMENT is contingent upon the continued availability of appropriated Federal funds. If the funds to be used for this AGREEMENT become unavailable to the CABINET for any reason, including the Kentucky General Assembly's failure to appropriate funds, operation of law, or a reduction of Federal funds, further reimbursement of PROJECT expenditures may be denied, the timeline extended, or the scope amended by the CABINET either in whole or in part without penalty. Denial of further reimbursement or termination, extension, or amendment of the PROJECT because of interruption of the appropriated funding is not a default or breach of this AGREEMENT by the CABINET nor may such denial, termination, extension, or amendment give rise to a claim against the CABINET.

**Section 3. Funding** It is understood that Federal funds for the PROJECT are being provided as authorized under 23 U.S.C., specifically through the Catalog of Federal Domestic Assistance Program Number 20.205 – Highway Planning and Construction. It is the responsibility of the CABINET to obtain these funds from FHWA. These funds may be authorized by either a single authorization or by a series of authorizations. The funds will be taken from the apportionment of Federal-Aid Surface Transportation Program Metropolitan Northern Kentucky (SNK) funds as allocated by the CABINET and subject to approval by FHWA. The total Federal share of the PROJECT cost shall not exceed \$223,700 unless approved in writing by the CABINET. Federal funds shall be matched as follows: 80% Federal - 20% non-Federal match. The RECIPIENT shall provide a 20% match for a total contract amount of \$279,625. The RECIPIENT agrees to provide local matching funds in an amount sufficient, together with the allocated Federal and State funds, if applicable, to assure funding for completion of the PROJECT. The Federal share and State share, if applicable, of costs are payable monthly by the CABINET upon presentation and approval of two (2) copies of a reimbursement request, including an invoice and adequate documentation. All reimbursement requests shall correspond with the expense

categories in the PROJECT budget and shall be submitted to the CABINET within thirty (30) days after the end of the reporting period. All invoice amounts submitted for each expense category shall be representative of and closely approximate the actual work done, as reported in the narrative progress report. The CABINET may withhold payment of an invoice until the RECIPIENT submits accompanying backup information, such as narrative progress reports, time sheets, receipts, cancelled checks, etc., needed to justify the payment of the invoice. The CABINET or FHWA may require additional documentation at their discretion.

It is understood that the value and character of any "in-kind" services contributed toward the local match must be approved by the CABINET and FHWA prior to being credited to the PROJECT. All "in-kind" services must meet CABINET and FHWA eligibility and applicability requirements.

It is further understood that revisions in the PROJECT budget may be necessary and may be allowed if they do not exceed the total sum set out above, subject to the prior written approval of the CABINET. In order for the RECIPIENT to be reimbursed for costs that are not listed in the PROJECT budget, the RECIPIENT must obtain written approval from the CABINET prior to incurring these costs.

Regardless of whether the contract period is extended, unexpended funds at the end of this AGREEMENT period shall not be carried forward to a future AGREEMENT.

**Section 4. Allowable Costs** The costs referred to in this AGREEMENT shall be comprised of the allowable direct costs incident to the performance of the PROJECT plus allowable indirect costs, less applicable credit, to be determined in accordance with the standards set forth in the Federal-Aid Policy Guide and Subpart E of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

If indirect costs are to be expended against the PROJECT, the RECIPIENT shall provide to the CABINET a Cost Allocation Plan (CAP). Upon the CABINET's review and approval of the CAP, indirect charges will be eligible for reimbursement. The CABINET and/or FHWA reserve the right to require additional documentation.

Costs incurred in carrying out certain elements of the PROJECT which must be completed without regard for state political boundaries are prorated to each state on the basis of a population split as shown by the latest available United States census data for urbanized areas.

**Section 5. Purchase of Project Equipment and Property** The purchase of all Equipment or Property financed in whole or in part pursuant to this AGREEMENT shall be in accordance with applicable state laws and 2 CFR Part 200. The RECIPIENT shall maintain property records for equipment costing over \$5,000 purchased with Federal funds and perform a physical inventory of equipment. The following required provision shall be included in any advertisement or invitation to bid for any procurement under this AGREEMENT: "Statement of Financial Assistance:



This contract is subject to a financial assistance contract between the State of Kentucky and the Federal Highway Administration."

**Section 6. Assignability** The RECIPIENT shall not assign a portion of the work to be performed under this AGREEMENT, or execute a contract or amendment thereto, or obligate itself with a third party with respect to its rights and responsibilities under this AGREEMENT without the prior written concurrence of the CABINET. The procurement of a professional service shall follow the guidelines identified in the CABINET's *Federal-Aid Highway Program Project Development Guide for Local Public Agencies*. Solicitation for and execution of a subcontract between the RECIPIENT and a third party for work included in the PROJECT must have prior written approval of the CABINET. A third party contract must comply with the regulations outlined in this AGREEMENT. The RECIPIENT shall follow all applicable State and Federal statutes and regulations when assigning work under this AGREEMENT, including but not limited to KRS 45A, 40 U.S.C. Chapter 11, and the procurement standards specified in 2 CFR.

**Section 7. Reporting and Records** The RECIPIENT shall comply with all reporting requirements outlined by the CABINET and FHWA. The RECIPIENT shall submit an annual Performance and Expenditure Report, if required, to the CABINET within 80 calendar days following the end of the RECIPIENT's fiscal year. The recording and reporting of a purchase shall be in accordance with the requirements of the Kentucky Revised Statutes, including KRS 45A, and applicable Federal and CABINET guidelines.

All charges under this AGREEMENT shall be supported by properly documented invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges. The CABINET or FHWA may require additional documentation at their discretion.

All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this AGREEMENT shall be clearly identified, readily accessible, and to the extent feasible, kept separate and apart from all other such documents. The RECIPIENT shall permit the CABINET and/or the FHWA to conduct periodic site visits to ascertain compliance with Federal and State regulations.

The RECIPIENT shall retain all records for a period of three (3) years from the date of project closure in FMIS, if applicable, or if not applicable, for a period of three (3) years from the date of submission of the final expenditure report, defined as the final invoice and accompanying backup documentation, pursuant to 2 CFR §200.333.

**Section 8. Audit and Inspection** The RECIPIENT shall permit the CABINET, the Finance and Administration Cabinet, the Auditor of Public Accounts, the Legislative Research Commission, the Comptroller General of the United States and the Secretary of the United States Department of Transportation, or their authorized representatives, to inspect and approve all phases of the PROJECT and all relevant PROJECT data and records; and the RECIPIENT shall also

permit representatives of these agencies to review audit(s) performed by the RECIPIENT or other entity and to audit the books and accounts of the RECIPIENT pertaining to the PROJECT.

The RECIPIENT shall provide the CABINET with two (2) copies of audits or reviews pursuant to Subpart F of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," within nine (9) months of its fiscal year end or within thirty (30) days after the audit is completed, whichever occurs first.

The RECIPIENT hereby acknowledges it is responsible to inform an entity it intends to hire or use as a contractor, as defined in KRS 45A.030, that the RECIPIENT, the CABINET, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to the entity's books, documents, papers, records, or other evidence which are directly pertinent to this AGREEMENT for the purpose of financial audit or program review. Furthermore, all books, documents, papers, records, or other evidence provided to the RECIPIENT, the CABINET, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission which are directly pertinent to the contract shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of the contract. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of information which would otherwise be subject to public release if a state government agency were providing the service.

**Section 9. Hold Harmless Clause** To the extent permitted by law, the RECIPIENT shall indemnify and hold harmless the FHWA and the CABINET and all of its officers, agents, and employees from all suits, actions, or claims of character arising from injuries, payments, or damages received or claimed by any person, persons, or property due to the activities of the RECIPIENT, its subcontractors, agents or employees, in connection with their services under this AGREEMENT.

**Section 10. Non-Discrimination and Equal Employment Opportunity** The RECIPIENT shall comply with all non-discriminatory requirements imposed by Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and all applicable Federal and State requirements, including Executive Orders. The RECIPIENT will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The RECIPIENT further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable Federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The RECIPIENT agrees to provide, upon request, needed reasonable accommodations. The RECIPIENT will take affirmative action to ensure that applicants are employed and that employees

are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The RECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

The RECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of the RECIPIENT, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The RECIPIENT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the RECIPIENT's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The RECIPIENT will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The RECIPIENT will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor. The RECIPIENT will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the RECIPIENT's noncompliance with the nondiscrimination clauses of this AGREEMENT or with any of the said rules, regulations or orders, this AGREEMENT may be cancelled, terminated or suspended in whole or in part and the RECIPIENT may be declared ineligible for further government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The RECIPIENT will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each

subcontractor or vendor. The RECIPIENT will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the RECIPIENT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the RECIPIENT may request the United States to enter into such litigation to protect the interests of the United States.

**Section 11. Interest of Members of or Delegates to Congress** No funding has been or will be paid to a member of or delegate to the Congress of the United States in connection with the awarding of this AGREEMENT, nor shall a member of or delegate to the Congress of the United States receive a benefit arising out of this AGREEMENT.

**Section 12. Prohibited Interest** No member, officer, or employee of the CABINET or of the RECIPIENT shall have an interest, direct or indirect, in this AGREEMENT or the proceeds thereof as established in KRS 45A.340.

**Section 13. Covenant Against Contingent Fees** The RECIPIENT warrants that no person, elected official, selling agency or other organization has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warrant, the CABINET shall have the right to annul this AGREEMENT without liability or, at its discretion, to deduct from the compensation, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

**Section 14. Applicable Laws** This AGREEMENT shall be in accordance with all Federal laws and the laws of the Commonwealth of Kentucky.

**Section 15. Americans with Disabilities Act** The RECIPIENT agrees to comply with the provisions of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, and other applicable Federal regulations relating hereto, issued by the U.S. Department of Transportation. The ADA prohibits discrimination against otherwise qualified individuals under a program or activity receiving Federal financial assistance covered by this AGREEMENT, and imposes requirements that affect the design, construction, and maintenance of all transportation projects to provide access to all facilities.

**Section 16. Disadvantaged Business Enterprise (DBE) Requirements** The RECIPIENT agrees to comply with the DBE requirements contained within 49 CFR Part 26.

DBE Assurance: The RECIPIENT, and all contractors or subcontractors, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The RECIPIENT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the RECIPIENT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination

of this AGREEMENT or such other remedy as the CABINET deems appropriate. Each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include this provision.

**DBE Prompt Payment Requirement:** The RECIPIENT must abide by 49 CFR §26.29 with regard to prompt payment mechanisms and retainage payment. If applicable, all contractors must be paid within ten (10) working days after the RECIPIENT has been paid by the CABINET for work performed or services delivered. No recipient or contractor may withhold retainage on a subcontract of this AGREEMENT.

**Section 17. Disputes** Disputes concerning a question of fact in connection with the work not disposed of by AGREEMENT between the RECIPIENT and the CABINET shall be referred to the Secretary of the Transportation Cabinet of the Commonwealth of Kentucky, or his duly authorized representative, whose decision shall be final.

**Section 18. Campaign Finance** If applicable, the undersigned representative of the RECIPIENT swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the entity which he/she represents has knowingly violated provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the entity which he/she represents will not violate provisions of the campaign finance laws of the Commonwealth.

**Section 19. Violations** If applicable, pursuant to KRS 45A.485, the RECIPIENT and any subcontractors performing work under this AGREEMENT, shall reveal to the CABINET the final determination of a violation within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342. These statutes relate to the state corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health law, unemployment compensation law, and workers compensation insurance law, respectively.

The RECIPIENT agrees to be in continuous compliance, and will require any subcontractors performing work under this AGREEMENT to be in compliance, with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 for the duration of this AGREEMENT. Failure to reveal a final determination of a violation of the referenced statutes or to comply with these statutes for the duration of the AGREEMENT shall be grounds for the termination of funding for the AGREEMENT and disqualification of the RECIPIENT from eligibility for future state contracts for a period of two (2) years.

**Section 20. Personal Service Contracts and Memoranda of Agreement** If this AGREEMENT comes under the purview of KRS 45A.690 - 45A.725, payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after disapproval of the Government Contract Review Committee unless the decision of the Committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority.

**Section 21. Debarment and Suspension** A contract award must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 and 12689. SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**Section 22. Clean Air Act and Federal Water Pollution Control Act** The RECIPIENT shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**Section 23. Boycott Provisions** The RECIPIENT represents that, pursuant to KRS 45A.607, they are not currently engaged in, and will not for the duration of the contract engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which Kentucky can enjoy open trade. The term "boycott" does not include actions taken for bona fide business or economic reasons, or actions specifically required by federal or state law.

**Section 24. Lobbying** The RECIPIENT represents that they, and any subcontractor performing work under the contract, have not violated the agency restrictions contained in KRS 11A.236 during the previous ten (10) years, and pledges to abide by the restrictions set forth in such statute for the duration of the contract awarded. The RECIPIENT further represents that, pursuant to KRS 45A.328, they have not procured an original, subsequent, or similar contract while employing an executive agency lobbyist who was convicted of a crime related to the original, subsequent, or similar contract within five (5) years of the conviction of the lobbyist.

**Section 25. Termination** The CABINET reserves the right to terminate all reimbursements under this AGREEMENT when deemed to be in the best interest of the CABINET by giving thirty (30) days written notice of such termination to the RECIPIENT. If reimbursement under this AGREEMENT is terminated by reason other than violation of this AGREEMENT or applicable law by the RECIPIENT, its agents, employees and/or contractors, the CABINET shall reimburse the RECIPIENT according to the terms of this AGREEMENT for all expenses incurred under this AGREEMENT to the date of the termination of reimbursement. The RECIPIENT may seek to terminate its obligations under this AGREEMENT when deemed to be in its best interest by giving thirty (30) days written notice to the CABINET. If the CABINET agrees to allow the RECIPIENT to terminate its obligations under this AGREEMENT, the RECIPIENT shall reimburse the CABINET for all federal funding reimbursement made under this AGREEMENT.

**Section 26. Agreement Change** Proposed changes in this AGREEMENT shall be at the mutual consent of the RECIPIENT and the CABINET and be evidenced in writing.

**Section 27. Resolution** If applicable, the RECIPIENT shall pass a resolution authorizing the undersigned representative of the RECIPIENT to sign this AGREEMENT on behalf of the RECIPIENT and a copy of the resolution shall be attached to the AGREEMENT and returned to the CABINET prior to full execution of this AGREEMENT.

**Section 28. Severability** In the event that any Section of this AGREEMENT is declared invalid or is unenforceable, the remainder of this AGREEMENT shall remain in full force and effect and all responsibilities and duties of the parties shall be performed as set forth herein.

**IN TESTIMONY WHEREOF**, the parties have hereto caused this AGREEMENT to be executed upon signature by their proper officers and representatives:

**OHIO-KENTUCKY-INDIANA REGIONAL  
COUNCIL OF GOVERNMENTS**

Mark Policinski  
Mark Policinski (Apr 18, 2024 10:11 CDT)

**EXECUTIVE DIRECTOR**

**DATE:** 04/18/2024

**COMMONWEALTH OF KENTUCKY  
TRANSPORTATION CABINET**

DocuSigned by:

ASX

9DC832E7B04544E

**SECRETARY, TRANSPORTATION  
CABINET**

**DATE:** 6/10/2024

**APPROVED AS TO FORM & LEGALITY**

DocuSigned by:

Will Fogle

78EDD24141D14BD

**OFFICE OF LEGAL SERVICES  
TRANSPORTATION CABINET**

**DATE:** 6/10/2024

Last updated: April 5, 2024

**ATTACHMENT A – FEDERAL FUNDING ACCOUNTABILITY & TRANSPARENCY ACT**

<b>Federal Funding Accountability and Transparency Act</b> <b>* AGREEMENT CAN NOT BE EXECUTED UNLESS ALL YELLOW BOXES ARE COMPLETED *</b>	
<b>1. SUB-AWARDEE</b> Name: Ohio-Kentucky-Indiana Regional Council of Governments Address: 720 E. Pete Rose Way, Suite 420 Cincinnati, OH 45202	
<b>2. DUNS NUMBER</b> 072864770	Unique 9 digit number issued by Dun & Bradstreet. To obtain a DUNS number (if you agency does not already have one) please access: <a href="http://fedgov.dnb.com/webform">http://fedgov.dnb.com/webform</a>
<b>3. CCR REGISTRATION (CAGE code)</b> 4HH58	Unique 5 digit number issued by the Central Contractor Registration. To obtain a CCR number (if your agency does not already have one) please access: <a href="https://www.bpn.gov/ccr/default.aspx">https://www.bpn.gov/ccr/default.aspx</a>
<b>4. TOTAL COMPENSATION AND NAMES OF TOP 5 EXECUTIVES</b>	
All agencies are required to report the Top 5 Highly Compensated officers for their agency if they meet <b>BOTH</b> of the following criteria: A) More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000 annually, and B) Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC)	
<b>NO- Does not meet both criteria A &amp; B</b>	<b>NO</b> If no, please skip to box 5
<b>YES- Meets both criteria A &amp; B</b>	If yes, please fill out 1-5 with Executive name and compensation.
4.1 Executive Name	Compensation
4.2 Executive Name	Compensation
4.3 Executive Name	Compensation
4.4 Executive Name	Compensation
4.5 Executive Name	Compensation
<b>5. PREPARED BY:</b>	
Name: Katie Hannum Title: Director of Finance	<b>DATE:</b> 4-18-2024
Additional information about the Federal Funding Accountability Transparency Act (FFATA) can be found at: <a href="http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf">http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf</a> <a href="http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf">http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf</a>	



OKI 2024-10

**RESOLUTION**  
**OF THE BOARD OF DIRECTORS OF THE**  
**OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS**  
**CONCERNING APPROVAL OF THE**  
**OKI UNIFIED PLANNING WORK PROGRAM FOR FISCAL YEAR 2025**

**WHEREAS**, the Ohio-Kentucky-Indiana Regional Council of Governments has prepared a Unified Planning Work Program for Fiscal Year 2025 in defining a scope of work to meet the needs of this region for which funding can be sought from the United States Department of Transportation, the State of Ohio, the Commonwealth of Kentucky, and the State of Indiana; and

**WHEREAS**, the Unified Planning Work Program for Fiscal Year 2025 has been reviewed by appropriate state and federal agencies; and

**WHEREAS**, Applicant is authorized by KRS 96A to apply for and accept grants of money to assist in the implementation of a transit system or for transportation planning in Boone, Campbell and Kenton; and

**WHEREAS**, the Unified Planning Work Program for Fiscal Year 2025 hereby certifies that all requirements of 23 CFR, Part 450 relating to the Metropolitan Transportation Planning Process have been met; Now, therefore;

**BE IT RESOLVED**, that the Board of Directors of the Ohio-Kentucky-Indiana Regional Council of Governments, at its regular public meeting of April 11, 2024, hereby approves the OKI Unified Planning Work Program for Fiscal Year 2025.

  
\_\_\_\_\_  
JOSH GERTH, FIRST VICE PRESIDENT

rwk  
04/11/24

**FY2025 PLANNING SUPPORT FOR DEARBORN COUNTY****TRANSPORTATION PLANNING CONTRACT****A249-24-ON240071**

This Contract (“Contract”) is made and entered into as of the date of the Indiana Attorney General signature affixed to this Contract by and between the State of Indiana, acting by and through the Indiana Department of Transportation (hereinafter referred to as “INDOT”) and the **Ohio-Kentucky-Indiana Regional Council of Governments**, acting by and through its proper officials (hereinafter referred to as the “CONTRACTOR”).

**WITNESSETH**

**WHEREAS**, the CONTRACTOR and INDOT desire to provide transportation planning assistance for regional areas in the State of Indiana under **Project Number 25P6098**.

**WHEREAS**, INDOT desires the CONTRACTOR to provide transportation planning support for regional planning organizations in non-metropolitan areas.

**WHEREAS**, INDOT is willing to pay the CONTRACTOR for planning work completed.

**NOW THEREFORE**, in consideration of the premises and the following mutually dependent covenants, the parties agree as follows:

**ARTICLE 1  
SPECIFIC PROVISIONS**

**1.1. Regulation**

The parties shall comply with applicable provisions set forth in Title 23 of the U.S. Code, the regulations issued pursuant thereto, and the policies and Procedures of INDOT and the Federal Highway Administration relative to the Project.

**1.2. Information and Scope**

The CONTRACTOR agrees to conduct and complete the tasks and activities shown in Appendix A, which is herein attached and incorporated by reference.

**1.3. Payment**

The CONTRACTOR shall be paid a total amount not to exceed **\$60,000.00**. INDOT reserves the right to reallocate the funds set aside for the carrying out of this Contract and to use such funds elsewhere upon the failure of the CONTRACTOR to perform any acts so required by this Contract. If, for any reason, INDOT is required to repay to the Federal Highway Administration the sum or sums of federal State Planning and Research (“SPR”) funds paid through INDOT under the terms of this Contract, either in the form of the 80% federal grant or the local match, then the CONTRACTOR will repay to INDOT such sum or sums upon receipt of a billing from INDOT.

**1.4 Term of Agreement and Notice to Proceed**. The effective dates for this Agreement will be July 1, 2024, through November 30, 2025. INDOT will send a Notice to Proceed to

the CONTRACTOR.

## ARTICLE II

### GENERAL PROVISIONS

**2.1 Access to Records.** The CONTRACTOR and its SUBCONTRACTORS, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

**2.2 Assignment; Successors.** Intentionally Deleted.

**2.3 Assignment of Antitrust Claims.** Intentionally Deleted.

**2.4 Audits.** The CONTRACTOR acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC § 5-11-1, et seq., and audit guidelines specified by the State.

The State considers the CONTRACTOR to be a “CONTRACTOR” under 2 C.F.R. 200.330 for purposes of this Contract. However, if it is determined that the CONTRACTOR is a “subrecipient” and if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), CONTRACTOR shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 et seq.

**2.5 Authority to Bind the CONTRACTOR.** The signatory for the CONTRACTOR represents that he/she has been duly authorized to execute this Contract on behalf of the CONTRACTOR and has obtained all necessary or applicable approvals to make this Contract fully binding upon the CONTRACTOR when his/her signature is affixed, and accepted by the State.

**2.6 Changes in Work.** The CONTRACTOR shall not commence any additional work or change the scope of the work until authorized in writing by the State. The CONTRACTOR shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

**2.7 Certification for Federal Aid Contracts Lobbying Activities.** The CONTRACTOR certifies, by signing and submitting this Agreement, to the best of its knowledge and belief that the CONTRACTOR has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreements, the making of any federal grant, the making of any federal loan,

the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with such federal agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The CONTRACTOR also agrees by signing this Agreement that it shall require that the language of this certification be included in all CONTRACTOR agreements including lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

## **2.8 Compliance with Laws.**

- A. The CONTRACTOR shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the CONTRACTOR to determine whether the provisions of this Contract require formal modification.
- B. The CONTRACTOR and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, et seq., IC § 4-2-7, et seq. and the regulations promulgated thereunder. If the CONTRACTOR has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the CONTRACTOR shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract. If the CONTRACTOR is not familiar with these ethical requirements, the CONTRACTOR should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the CONTRACTOR or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the CONTRACTOR. In addition, the CONTRACTOR may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.
- C. The CONTRACTOR certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The CONTRACTOR agrees that any payments currently due to the State of Indiana may be withheld from payments due to the CONTRACTOR. Additionally, further work or

payments may be withheld, delayed, or denied and/or this Contract suspended until the CONTRACTOR is current in its payments and has submitted proof of such payment to the State.

- D. The CONTRACTOR warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the CONTRACTOR agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.
- E. If a valid dispute exists as to the CONTRACTOR's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the CONTRACTOR, the CONTRACTOR may request that it be allowed to continue, or receive work, without delay. The CONTRACTOR must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.
- F. The CONTRACTOR warrants that the CONTRACTOR and its SUBCONTRACTORS, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- G. The CONTRACTOR affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC § 5-22-3-7:

(1) The CONTRACTOR and any principals of the CONTRACTOR certify that:

(A) the CONTRACTOR, except for de minimis and nonsystematic violations, has not violated the terms of:

- (i) IC §24-4.7 [Telephone Solicitation of Consumers];
- (ii) IC §24-5-12 [Telephone Solicitations]; or
- (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

(B) the CONTRACTOR will not violate the terms of IC § 24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

(2) The CONTRACTOR and any principals of the CONTRACTOR certify that an affiliate or principal of the CONTRACTOR and any agent acting on behalf of the CONTRACTOR or on behalf of an affiliate or principal of the CONTRACTOR, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC § 24-4.7 for the duration of the

Contract, even if IC §24-4.7 is preempted by federal law.

**2.9 Condition of Payment.** All services provided by the CONTRACTOR under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract, or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

**2.10 Confidentiality of State Information.** The CONTRACTOR understands and agrees that data, materials, and information disclosed to the CONTRACTOR may contain confidential and protected information. The CONTRACTOR covenants that data, material, and information gathered, based upon or disclosed to the CONTRACTOR for the purpose of this Contract will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by the CONTRACTOR for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the CONTRACTOR and the State agree to comply with the provisions of IC § 4-1-10 and IC § 4-1-11. If any Social Security number(s) is/are disclosed by the CONTRACTOR, the CONTRACTOR agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

**2.11 Continuity of Services.** Intentionally Deleted.

**2.12 Debarment and Suspension.**

A. The CONTRACTOR certifies by entering into this Contract that neither it nor its principals nor any of its SUBCONTRACTORS are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the CONTRACTOR.

B. The CONTRACTOR certifies that it has verified the state and federal suspension and debarment status for all SUBCONTRACTORS receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred SUBCONTRACTOR. The CONTRACTOR shall immediately notify the State if any SUBCONTRACTOR becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the SUBCONTRACTOR for work to be performed under this Contract.

**2.13 Default by State.** Intentionally Deleted.

**2.14 Disputes. Intentionally Deleted.**

**2.15 Drug-Free Workplace Certification.** As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the CONTRACTOR hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The CONTRACTOR will give written notice to the State within ten (10) days after receiving actual notice that the CONTRACTOR, or an employee of the CONTRACTOR in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the CONTRACTOR certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONTRACTOR's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the CONTRACTOR's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the CONTRACTOR of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

**2.16 Employment Eligibility Verification** As required by IC § 22-5-1.7, the CONTRACTOR swears or affirms under the penalties of perjury that the CONTRACTOR does not knowingly employ an unauthorized alien. The CONTRACTOR further agrees that:

A. The CONTRACTOR shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The CONTRACTOR is not required to participate should the E-Verify program cease to exist. Additionally, the CONTRACTOR is not required to participate if the CONTRACTOR is self-employed and does not employ any employees.

B. The CONTRACTOR shall not knowingly employ or contract with an unauthorized alien. The CONTRACTOR shall not retain an employee or contract with a person that the CONTRACTOR subsequently learns is an unauthorized alien.

C. The CONTRACTOR shall require his/her/its SUBCONTRACTORS, who perform work under this Contract, to certify to the CONTRACTOR that the SUBCONTRACTOR does not knowingly employ or contract with an unauthorized alien and that the SUBCONTRACTOR has enrolled and is participating in the E-Verify program. The CONTRACTOR agrees to maintain this certification throughout the duration of the term of a contract with a SUBCONTRACTORS.

The State may terminate for default if the CONTRACTOR fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

**2.17 Employment Option. Intentionally Deleted.**

**2.18. Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a “Force Majeure Event”), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

**2.19 Funding Cancellation.** As required by Financial Management Circular 3.3 and IC §5-22-17-5, when the Director of the State Budget Agency (SBA) makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.



**2.20 Governing Law.** This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

**2.21. HIPAA Compliance.** Intentionally Deleted.

**2.22 Indemnification.** The CONTRACTOR agrees to indemnify, defend, exculpate and hold harmless the State of Indiana, INDOT, and their officials and employees from any liability due to loss, damage, injuries, or other casualties of whatever kind, to the person or property of anyone on or off the right-of-way arising out of, or resulting from the performance of work covered by this Contract or the work connected therewith, or from the installation, existence, use, maintenance, condition, repairs, alteration, or removal of any equipment or material, to the extent such liability is caused by the of negligence of the CONTRACTOR, including any claims arising out of the Workmen's Compensation Act or any other law, ordinance, order, or decree. The CONTRACTOR agrees to pay all reasonable expenses and attorney fees incurred by or imposed on INDOT in connection herewith in the event the CONTRACTOR shall default under the provisions of this Section.

**2.23 Independent Contractor; Workers' Compensation Insurance.** The CONTRACTOR is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any on (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or SUBCONTRACTORS of the other party. The CONTRACTOR shall provide all necessary unemployment and workers' compensation insurance for the CONTRACTOR employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

**2.24 Indiana Veteran Owned Small Business Enterprise Compliance.** Intentionally Deleted.

**2.25 Information Technology Enterprise Architecture Requirements.** Intentionally Deleted.

**2.26 Insurance.** Intentionally Deleted.

**2.27 Key Person(s).** Intentionally Deleted.

**2.28 Licensing Standards.** The CONTRACTOR, its employees and SUBCONTRACTOR shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the CONTRACTOR pursuant to this Contract. The State will not pay the CONTRACTOR for any services performed when the CONTRACTOR, its employees or SUBCONTRACTORS are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an

applicable license, certification, or accreditation, the CONTRACTOR shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

**2.29 Merger & Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

**2.30 Minority and Women's Business Enterprises Compliance.** Intentionally Deleted.

**2.31 Nondiscrimination.**

- A. This Agreement is enacted pursuant to the Indiana Civil Rights Law, specifically including IC §22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. Breach of this covenant may be regarded as a material breach of this Agreement, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the CONTRACTOR or any SUBCONTRACTOR.

Under IC §22-9-1-10 the CONTRACTOR covenants that it shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, or status as a veteran.

- B. The CONTRACTOR understands that INDOT is a recipient of federal funds. Pursuant to that understanding, the CONTRACTOR agrees that if the CONTRACTOR employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONTRACTOR will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONTRACTOR shall comply with Section 202 of Executive Order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of this Agreement.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (INDOT's nondiscrimination enforcement is broader than the language of Title VI and encompasses other State and Federal protections. INDOT's enforcement shall include the following additional grounds: sex, sexual orientation, gender identity, ancestry, age, income status, religion, disability, limited English proficiency, or status as a veteran.)

C. During the performance of this Agreement, the CONTRACTOR, for itself, its assignees and successors in interest (hereinafter referred to as the "CONTRACTOR") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

1. **Compliance with Regulations:** The CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as "the Regulations"), which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** The CONTRACTOR, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of SUBCONTRACTORS, including procurements of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the CONTRACTOR for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential CONTRACTORS or supplier shall be notified by the CONTRACTOR of the CONTRACTOR's obligations under this Agreement, and the Regulations relative to nondiscrimination on the basis of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.
4. **Information and Reports:** The CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by INDOT and FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, the CONTRACTOR shall so certify to INDOT or FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the CONTRACTOR'S noncompliance with the nondiscrimination provisions of this Agreement, INDOT shall impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to: (a) withholding payments to the CONTRACTOR under the Agreement until the CONTRACTOR complies, and/or (b) cancellation, termination, or suspension of the Agreement, in whole or in part.

6. **Incorporation of Provisions:** The CONTRACTOR shall include the provisions of paragraphs 1. through 5. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONTRACTOR shall take such action with respect to any subcontract or procurement as INDOT or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a SUBCONTRACTOR or supplier as a result of such direction, the CONTRACTOR may request INDOT to enter into such litigation to protect the interests of INDOT, and, in addition, the CONTRACTOR may request the United States of America to enter into such litigation to protect the interests of the United States of America.

**2.32 Notice to Parties.** Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the following addresses, unless otherwise specifically advised:

**A. For INDOT:**

Stephanie Belch  
INDOT Technical Planning & Programming  
100 North Senate Avenue, Room N758-TP  
Indianapolis IN 46204  
Phone: 317-233-2070

And with copy to:

Chief Legal Counsel and Deputy Commissioner  
Indiana Department of Transportation  
100 North Senate Avenue, Room N758  
Indianapolis, IN 46204  
Phone: (317) 232-5012

**B. For the CONTRACTOR:**

Ohio-Kentucky-Indiana Regional Council of Governments  
720 East Pete Rose Way, Suite 420  
Cincinnati, OH 45202

**2.33 Order of Precedence; Incorporation by Reference.** Intentionally Deleted.

**2.34 Ownership of Documents and Materials.**

A. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the

CONTRACTOR prior to execution of this Contract, but specifically developed under this Contract shall be considered “work for hire” and the CONTRACTOR hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the CONTRACTOR grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

B. Use of the Materials, other than related to contract performance by the CONTRACTOR, without the prior written consent of the State, is prohibited. During the performance of this Contract, the CONTRACTOR shall be responsible for any loss of or damage to the Materials developed for or supplied by the State and used to develop or assist in the services provided while the Materials are in the possession of the CONTRACTOR. Any loss or damage thereto shall be restored at the CONTRACTOR’s expense. The CONTRACTOR shall provide the State full, immediate, and unrestricted access to the Materials and to CONTRACTOR’s work product during the term of this Contract.

## **2.35 Payments.**

A. All payments shall be made thirty-five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC § 4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the CONTRACTOR in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC § 4-13-2-20.

B. If the CONTRACTOR is being paid in advance for the maintenance of equipment, software or a service as a subscription, then pursuant to IC § 4-13-2-20(b)(14), the CONTRACTOR agrees that if it fails to fully provide or perform under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

**2.36 Penalties, Interest and Attorney's Fees.** The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney’s fees, except as permitted by Indiana law, in part, IC § 5-17-5, IC § 34-54-8, IC § 34-13-1 and IC § 34-52-2.

Notwithstanding the provisions contained in IC § 5-17-5, any liability resulting from the State’s failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

**2.37 Progress Reports.** The CONTRACTOR shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

**2.38 Public Record.** The CONTRACTOR acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

**2.39 Renewal Option.** This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC § 5-22-17-4. The term of the renewed contract may not be longer than the term of the original Contract.

**2.40 Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

**2.41 Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

**2.42 Taxes.** The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the CONTRACTOR as a result of this Contract.

**2.43 Termination for Convenience.** This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to IDOA and the State Budget Agency whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the CONTRACTOR of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The CONTRACTOR shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The CONTRACTOR shall be compensated for services herein provided but in no case shall total payment made to the CONTRACTOR exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that IDOA shall be deemed to be a party to this Contract with authority to terminate the same for convenience when such is determined by the Commissioner of IDOA to be in the best interests of the State.

**2.44 Termination for Default.**

A. With the provision of thirty (30) days' notice to the CONTRACTOR, the State may terminate this Contract in whole or in part if the CONTRACTOR fails to:

1. Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;
2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
3. Make progress so as to endanger performance of this Contract; or

4. Perform any of the other provisions of this Contract.

B. If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the CONTRACTOR will be liable to the State for any excess costs for those supplies or services. However, the CONTRACTOR shall continue the work not terminated.

C. The State shall pay the contract price for completed supplies delivered and services accepted. The CONTRACTOR and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

**2.45 Travel.** No expenses for travel will be reimbursed unless specifically authorized by this Contract. Permitted expenses will be reimbursed at the rate paid by the State and in accordance with the State Budget Agency's *Financial Management Circular – Travel Policies and Procedures* in effect at the time the expenditure is made. Out-of-state travel requests must be reviewed by the State for availability of funds and for conformance with *Circular* guidelines.

**2.46 Waiver of Rights.** No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONTRACTOR shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the CONTRACTOR's negligent performance of any of the services furnished under this Contract.

**2.47 Work Standards.** The CONTRACTOR shall execute its responsibilities by following and always applying the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the CONTRACTOR shall grant such request.

**2.48 State Boilerplate Affirmation Clause.** I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's standard contract clauses (as contained in the 2022 OAG/ IDOA *Professional Services Contract Manual* or the 2022 *SCM Template*) in any way except as follows:

**Modified Sections:** 2.7 Certificated for Federal Aid Lobbying added; 2.22 Indemnification; 2.31 Non-Discrimination (FHWA); and 2.32 Notice (add Chief Counsel).

**Deleted Sections:** 2.2 Assignment Successors; 2.3 Assignment of Anti-Trust Claims; 2.11

Continuity of Service; 2.13 Default by State; 2.14 Disputes; 2.17 Employment Option; 2.21 HIPAA Compliance; 2.24 Indiana Veteran Small Business Enterprise Compliance; 2.25 Information Technology Enterprise Architectural Requirements; 2.26 Insurance; 2.27 Key Person; 2.30 MBE/WBE; 2.33 Order of Precedence; Incorporation by Reference.

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### Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Party, or that the undersigned is the properly authorized representative, agent, member or officer of the Party. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Party, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC §4-2-6-1, has a financial interest in the Agreement, the Party attests to compliance with the disclosure requirements in IC §4-2-6-10.5.**

### Agreement to Use Electronic Signatures


I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database:

[https://fs.gmis.in.gov/psp/guest/SUPPLIER/ERP/c/SOI\\_CUSTOM\\_APPS.SOI\\_PUBLIC\\_CNTRCTS.GBL?](https://fs.gmis.in.gov/psp/guest/SUPPLIER/ERP/c/SOI_CUSTOM_APPS.SOI_PUBLIC_CNTRCTS.GBL?)

**In Witness Whereof**, the Parties have, through their duly authorized representatives, entered into this Agreement. The Parties, having read and understood the foregoing terms of this Agreement, do by their respective signatures dated below agree to the terms thereof.

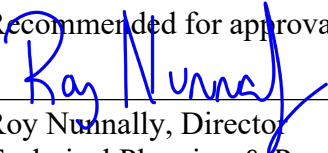
**Name: OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS**

Executed by:

  
Mark Policinski (Apr 25, 2024 15:31 EDT)  
Mark R. Policinski  
Executive Director

Date: 04/22/2024

STATE OF INDIANA  
**Indiana Department of Transportation**

Recommended for approval by:  
  
Roy Nunnally, Director  
Technical Planning & Programming Division

Date: 5/2/2024

Executed By:

Lyndsay Quist  
Lyndsay Quist, Deputy Commissioner  
Capital Program Management

Date: 5/3/2024

APPROVALS

STATE OF INDIANA  
**State Budget Agency**

\_\_\_\_\_  
Joseph M. Habig  
Acting Director, State Budget  
Agency

(for)

Date: \_\_\_\_\_

STATE OF INDIANA  
**Department of Administration**

\_\_\_\_\_  
Dr. Rebecca Holwerda, Commissioner

(for)

Date: \_\_\_\_\_

Approved as to Form and Legality:

\_\_\_\_\_  
Attorney General Theodore E. Rokita

(for)

Date: \_\_\_\_\_

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## Appendix A – Scope of Work

Breakdown of Activities by Task and Overall Budget Summary - FY2025			
Ohio-Kentucky-Indiana Regional Council of Governments (Dearborn County Indiana)			
	Statewide Planning and Research Funds (SPR)	Matching Funds (Regional Planning Organization (RPO))	Total
<b>Task 1 Traffic Count Data Program:</b>			
Activity 2: Special Traffic Counts	\$334	\$84	\$418
Activity 3: Traffic counts processing	\$167	\$42	\$209
Activity 4: Traffic Count Equipment Purchases	\$0	\$0	\$0
<b>Total</b>	<b>\$502</b>	<b>\$125</b>	<b>\$627</b>
<b>Task 2 Planning Support to Local Governments:</b>			
Activity 1: Transportation Plans	\$1,230	\$307	\$1,537
Activity 2: Transportation Planning Support	\$15,836	\$3,959	\$19,794
Activity 3: Intersection Studies	\$0	\$0	\$0
Activity 4: Hazard Elimination Studies/Road Safety Audit	\$0	\$0	\$0
Activity 5: Bicycle and Pedestrian Plans	\$895	\$224	\$1,119
Activity 6: Traffic Counting and Forecasting	\$16,044	\$4,011	\$20,055
Activity 7: Project Evaluation Support	\$0	\$0	\$0
Activity 8: Title VI Planning	\$448	\$112	\$561
Activity 9: ADA Transition Plans	\$0	\$0	\$0
Activity 10: Asset Management Assistance/Community Crossings applications planning support	\$0	\$0	\$0
Activity 11: Red Flag Investigations	\$0	\$0	\$0
Activity 12: Other Technical Planning Services	\$0	\$0	\$0
<b>Total</b>	<b>\$34,453</b>	<b>\$8,613</b>	<b>\$43,067</b>
<b>Task 3 Planning Support to INDOT - Central Office and District:</b>			
Activity 1: HPMS Data Collection	\$0.00	\$0.00	\$0.00
Activity 2: Railroad Crossing Inventory	\$0.00	\$0.00	\$0.00
Activity 3: Data Conversion	\$0.00	\$0.00	\$0.00
Activity 4: ARIES Crash Data Quality Control	\$1,563.25	\$390.81	\$1,954.06
Activity 5: Develop Urban Area Boundaries	\$0.00	\$0.00	\$0.00
Activity 6: Update Functional Classification Data	\$1,236.03	\$309.01	\$1,545.04
Activity 7: Performance Measure Assistance	\$836.20	\$209.05	\$1,045.25
Activity 8: Meetings and Rural Consultation/Coordination with Local Officials	\$6,096.52	\$1,524.13	\$7,620.65
Activity 9: Quarterly Project Tracking	\$6,451.04	\$1,612.76	\$8,063.80
Activity 10: Assist with District Open House/Public Outre	\$0.00	\$0.00	\$0.00
Activity 11: Other Technical Support Services	\$1,697.92	\$424.48	\$2,122.40
<b>Total</b>	<b>\$17,880.96</b>	<b>\$4,470.24</b>	<b>\$22,351.20</b>
<b>Task 4 Planning Capacity Enhancement:</b>			
Activity 1: Equipment Purchases	\$0	\$0	\$0
Activity 2: Training	\$0	\$0	\$0
Activity 3: Traffic Count Certification	\$0	\$0	\$0
Activity 4: Geographic Information Systems Development	\$7,164	\$1,791	\$8,955
<b>Total</b>	<b>\$7,164</b>	<b>\$1,791</b>	<b>\$8,955</b>
<b>Overall Budget Summary:</b>			
Task 1 Traffic Count Program	\$502	\$125	\$627
Task 2 Planning Support to Local Governments	\$34,453	\$8,613	\$43,066
Task 3 Planning Support to INDOT	\$17,881	\$4,470	\$22,351
Task 4 Planning Capacity Enhancement	\$7,164	\$1,791	\$8,955
<b>Grand Total</b>	<b>\$60,000</b>	<b>\$15,000</b>	<b>\$75,000</b>
<b>Contract Amount (Total SPR Funds) =</b>	<b>\$60,000</b>		

**MEMORANDUM OF UNDERSTANDING  
AMONG  
THE OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS,  
THE OHIO ENVIRONMENTAL PROTECTION AGENCY,  
THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,  
THE INDIANA DEPARTMENT OF TRANSPORTATION,  
THE MIAMI VALLEY REGIONAL PLANNING COMMISSION,  
THE OHIO DEPARTMENT OF TRANSPORTATION,  
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY-REGION 5,  
THE FEDERAL HIGHWAY ADMINISTRATION-OHIO DIVISION,  
THE FEDERAL HIGHWAY ADMINISTRATION-INDIANA DIVISION,  
THE FEDERAL TRANSIT ADMINISTRATION-REGION 5**

The purpose of this Memorandum of Understanding (MOU) is to implement section 176(c)(4)(E) of the Clean Air Act (CAA), as amended (42 USC 7401 et seq.), the related requirements of 23 U.S. C. 109(j), and regulations under the Code of Federal Regulations (CFR) section 40, Part 93, Subpart A with respect to the conformity of transportation plans, programs, and projects that are developed, funded or approved by the United States Department of Transportation (U.S. DOT) and by Metropolitan Planning Organizations (MPOs), and the Ohio Department of Transportation (Ohio DOT), the Indiana Department of Transportation (INDOT) or other recipients of funds under title 23 USC or the Federal Transit Laws (49 USC Chapter 53). This MOU sets forth policy, criteria, and procedures for demonstrating and assuring conformity of such activities to applicable implementation plans developed according to Part A, section 110 and Part D of the CAA.

This is a MOU concerning the criteria and procedures for the conformity determination of transportation plans, programs and projects in the Cincinnati-Middletown-Wilmington OH-KY-IN, Combined Statistical Area for National Ambient Air Quality Standards (NAAQS), pursuant to the CAA Amendments of 1990.

The Kentucky portion of the Cincinnati-Middletown-Wilmington OH-KY-IN area will have a separate state rule or agreement for transportation conformity consultation. Although the Kentucky agencies and Region 4 federal agencies are not parties to this agreement, the agencies are expected to participate in the consultation meetings and to review materials. These parties are: Kentucky Environmental and Public Protection Cabinet (KEPPC); United States Environmental Protection Agency-Region 4 (U.S. EPA-R4); Kentucky Transportation Cabinet (KYTC); Federal Highway Administration-Kentucky Division (FHWA-KY); and Federal Transit Administration-Region 4 (FTA-R4). These parties do not need to be signatories to this MOU since Kentucky will submit a revision to the Kentucky SIP to address transportation conformity consultation procedures which will be the same or substantially similar to these procedures.

The 10 parties to this MOU are as follows, hereafter referred to as “all parties”:

Ohio-Kentucky-Indiana Regional Council of Governments MPO (OKI)  
Miami Valley Regional Planning Commission (MVRPC)  
Ohio Environmental Protection Agency (Ohio EPA)  
Indiana Department of Environmental Management (IDEM)  
Ohio Department of Transportation (Ohio DOT)  
Indiana Department of Transportation (INDOT)  
Federal Highway Administration-Ohio Division (FHWA-OH)  
Federal Highway Administration-Indiana Division (FHWA-IN)  
Federal Transit Administration-Region 5 (FTA-R5)  
United States Environmental Protection Agency-Region 5 (U.S. EPA-R5)

This MOU will be submitted as a revision to the Ohio State Implementation Plan (SIP) required by section 176 of the CAA Amendments of 1990 and will govern conformity determinations in the OKI MPO area. The OKI region consists of Dearborn County, Indiana; Boone, Campbell, and Kenton counties in Kentucky; Butler, Clermont, Hamilton and Warren counties in Ohio. OKI is responsible for the air quality conformity determination for the region's transportation plans, projects and programs in these counties. Clinton County is outside of the OKI region, but is part of the ozone nonattainment area. Ohio DOT is the lead planning agency for Clinton County. MVRPC is the lead planning agency for the cities of Franklin, Carlisle and Springboro in Warren County Ohio.

This MOU will continue to apply to any revised nonattainment area geographies resulting from future designations, or designation revisions for the criteria pollutants within the OKI areas.

Execution of this MOU by each party shall be by signature of each party's representative.

The provisions of this MOU shall be implemented through appropriate procedures, resolutions, or other means, in order to comply with the requirements of all federal and state laws and regulations relating to the conformity determination and development of applicable implementation plan revisions. This MOU along with Attachments A and B defines and delineates the roles, processes, and responsibilities of each signatory to this MOU.

## **Attachment A**

### **Transportation Air Quality Conformity Protocol**

#### **Conformity Procedures**

In accordance with the requirements under section 176 (c)(4)(C) of the CAA, Ohio EPA submitted a state implementation plan (SIP) revision to U.S. EPA on August 17, 1995. This submittal was found to be complete on October 5, 1995. In this submittal, Ohio EPA adopted state rules to meet the requirements of 40 CFR Part 51, Subpart T, as published on November 24, 1993. Transportation conformity is required for all nonattainment or maintenance areas for any transportation related criteria pollutants [40 CFR 51.394 (b)].

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). SAFETEA-LU promotes more efficient and effective Federal surface transportation programs by focusing on transportation issues of national significance, while giving state and local transportation decision makers more flexibility for solving transportation problems in their communities. Section 6011 of SAFETEA-LU specifically addresses transportation conformity. One of the requirements, (f)(4)(E) states,

“Not later than 2 years after the date of enactment of the SAFETEA-LU the procedures under subparagraph (A) shall include a requirement that each state include in the state implementation plan criteria and procedures for consultation required by subparagraph (D) (i), and enforcement and enforceability (pursuant to sections 93.125 (c) and 93.122 (a) (4) (ii) of Title 40, Code of Federal Regulations (CFR) in accordance with the Administrator’s criteria and procedures for consultation, enforcement and enforceability.”

States are no longer required to adopt all of the provisions of the federal conformity rule. The three required conformity SIP elements are:

- 1) consultation procedures [40 CFR 93.105] (Attachment B);
- 2) procedures for determining regional transportation-related emissions [40 CFR 93.122(a)(4)(ii)] (Attachment A); and
- 3) enforceability of design concept and scope and project-level mitigation and control measures [40 CFR 93.125 (c)] (Attachment A).

In accordance with 40 CFR 93.105, the SIP or SIP revision shall include procedures for interagency consultation (federal, state and local), resolution of conflicts, and public consultation as described in Attachment B. Public consultation shall be developed in accordance with the requirements for public participation in 23 CFR Part 450. The SIP shall include procedures to be undertaken by OKI, state and federal DOTs, local air quality agencies and U.S. EPA, prior to making transportation conformity determinations, and by state and local air agencies and U.S. EPA with OKI, state and federal DOTs, in developing applicable implementation plans. OKI and Ohio DOT must provide reasonable opportunity for consultation with all parties and local air quality and transportation agencies as described in Attachment B.

In accordance with 40 CFR 93.122(a)(4)(ii), OKI will not include emissions reduction credits from any control measures that are not included in its transportation plan (TP) or transportation improvement program (TIP) and do not require a regulatory action, in the regional emissions analyses used in the conformity demonstration unless OKI, or FHWA/FTA obtains written commitments, as defined in 40

CFR 93.101, from the appropriate entities to implement those control measures. The written commitments to implement those control measures must be fulfilled by the appropriate entities. Prior to making a conformity determination on a TP or TIP, OKI will ensure the project design concept and scope are appropriately identified in the emissions analyses used in the regional conformity demonstration.

In accordance with 40 CFR 93.125(c), prior to making a project-level conformity determination for a transportation project, FHWA/FTA must obtain from the project sponsor and/or operator written commitments, as defined in 40 CFR 93.101, to implement any project-level mitigation or control measures in the construction or operation of the project identified as conditions for National Environmental Policy Act (NEPA) approval. The written commitments to implement those project-level mitigation or control measures must be fulfilled by the appropriate entities. Prior to making a project-level conformity determination, written commitments will be obtained before such mitigation or control measures are used in a project-level hot-spot conformity analysis [40 CFR 93.125(c)]. Consultation on these commitments will take place as a part of a consultation process prior to the project-level conformity analysis and determination. Interagency consultation for a project-level conformity analysis may occur separately from the consultation used during the development of a regional conformity demonstration.

## **Attachment B**

### **Interagency Consultation Procedures**

#### **I. General**

Ohio EPA will submit these consultation procedures as a revision to the SIP, whereby all parties to this MOU and other organizations with responsibilities for developing, submitting, or implementing provisions of a SIP must consult with each other on the development of the SIP, the TP, the TIP, and associated conformity determinations in accordance with 40 CFR 93.105(b)(1).

These procedures implement the interagency consultation process for OKI and include procedures to be undertaken by all parties to this MOU before making transportation conformity determinations on the TP and TIP in accordance with 40 CFR 93.105(a)(1) and 40 CFR 93.105(c)(3). This area's geographic coverage includes two MPO's, eight counties in three states: Dearborn County, Indiana; Boone, Campbell, Kenton counties in Kentucky; Butler, Clermont, Hamilton and Warren counties in Ohio. OKI's TP and TIP address only the MPO area. Clinton County is outside of the OKI region, but is part of the nonattainment area. Ohio DOT is the lead planning agency for Clinton County. MVRPC is the lead planning agency for the cities of Franklin, Carlisle and Springboro in Warren County, Ohio. These analyses are combined to make a conformity determination for the OKI region. KYTC and IDEM are lead planning agencies for their respective areas not within the OKI region.

Persons of any organizational level in the signatory agencies may participate in the of the interagency consultation group. All consultation will be open to the public, but not necessitate official public notification. Each agency chooses its representative for interagency consultation, and forwards that person's contact info to OKI whose representative is responsible for maintaining the participant list. Changes in representatives will be given to OKI. OKI will in turn redistribute it to all parties. OKI is responsible for convening meetings and providing an agenda.

Interagency consultation frequency will be as needed, unless there is consensus among the consultation parties to meet on a specific schedule (i.e. quarterly, biannually, annually, etc.). In most cases, consultation will be via conference call and/or email unless the interagency consultation group decides that certain items may require a face-to-face meeting and could not be handled via conference call or email.

Early in the TP and/or TIP development process, the MPO will develop a schedule for key activities and meetings leading up to the adoption of the TP, TIP or amendment to the TP or TIP. In developing the draft TP and/or TIP, the MPO brings important air quality conformity TP and/or TIP related issues to all parties in the interagency consultation group for discussion and feedback. OKI is responsible for making all materials used for these discussions available to the interagency consultation group prior to the consultation sessions. Similar consultation will occur with TP amendments if a new regional analysis is required.

Public participation in the development of the TP and/or TIP will be provided in accordance with OKI's adopted Public Participation Procedures in accordance with 23 CFR 450.

OKI will provide the interagency consultation group an opportunity to review the draft conformity analysis. This review will typically take place during the public review period. This is typically done by e-mail. The interagency consultation group will respond promptly to the OKI staff with any comments. Members of the public can comment on the draft conformity analysis in accordance with OKI's adopted



public participation procedures. All comments received will be included in the final conformity documentation.

OKI and Ohio EPA will be responsible for maintaining a list of any TCMs that are in the applicable SIP for the OKI area [see section IV a].

The following process provides for final documents to be provided to all interagency consultation group members as required by 40 CFR 93.105(c)(7):

After the OKI Board of Director's (MPO Board) adopts the final TP or TIP and associated conformity determination, OKI will provide the final conformity documentation to FHWA and the interagency consultation group for a federal conformity finding. FHWA will initiate formal consultation and will provide 30 days for written comments from the interagency consultation group members. If appropriate, FHWA will issue the formal conformity finding on behalf of U.S. DOT. The TP update or amendment becomes effective the date the U.S. DOT conformity finding is issued. The TIP update or amendment only becomes effective after the U.S. DOT conformity finding is issued, and the FHWA approves the associated TIP update or amendment into Ohio's State Transportation Improvement Program (STIP). OKI will transmit electronic copies of the final conformity analysis to the interagency consultation group members and place a final copy on OKI's Web site.

## **II. Consultation on Transportation Plans, Transportation Plan Amendments, Transportation Improvement Programs, and Transportation Improvement Program Amendments [40 CFR 93.105]**

Consultation on all non-conformity related aspects of transportation plans, transportation improvement programs, and amendments thereto shall be governed by the applicable participation plans developed pursuant to 23 USC 134/49 USC 5303(i)(5), (i)(6), and (j)(4) and 23 USC 135/49 USC 5304 (f)(3) and (g)(3). Consultation on conformity related aspects of these activities are delineated below.

### **a) Consultation on Transportation Plan and Transportation Plan Amendment Conformity Process**

The federal conformity rules at 40 CFR Part 93 defines the criteria and procedures by which conformity will be established in accordance with 40 CF 93.105 (c), interagency consultation will include the following topics, as appropriate:

- travel forecasting and modeling assumptions;
- latest planning assumptions;
- motor vehicle emission factors to be used in conformity analysis;
- appropriate analysis years;
- determination of exempt projects and evaluating whether projects otherwise exempted (as listed in 93.126 and 93.127) should be treated as non-exempt.;
- determination of which minor arterials and other transportation projects should be considered regionally significant projects for the purposes of regional emissions analysis (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel;
- which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP;
- treatment of regionally significant projects (federal and non-federal funded) assumed in the transportation network and the year of operation;

- treatment of regionally significant projects that span MPO boundaries;
- status of TCM implementation;
- financial constraints and other requirements that affect conformity pursuant to federal statewide and metropolitan planning regulations (this item is not a requirement for consultation);
- reliance on a previous regional emissions analysis;
- conformity process public participation procedures; and
- the need for interim TP (in the event of a conformity lapse).

OKI is the lead agency for development of its transportation plans and amendments thereto. OKI is the lead agency for the development of the associated transportation conformity analyses for the Ohio counties of Butler, Clermont, Hamilton, and Warren, the Kentucky counties of Boone, Campbell and Kenton, and Dearborn County, Indiana. MVRPC, Ohio DOT, KYTC and IDEM are lead agencies for the conformity analyses for their respective areas outside the OKI region. OKI and the interagency consultation group will be provided the opportunity to review the Ohio DOT, and INDOT analyses prior to inclusion in the overall conformity document. The interagency consultation parties will participate in the plan development process, review associated documentation, and collaboratively decide on aspects of the conformity determination that must be determined through interagency consultation according to the regulations at 40 CFR Part 93. Opportunity for comment and participation is provided in the interagency consultation conferencing and by commenting on draft materials as described in the general of this document.

If new designations for criteria pollutants occur that expand analyses areas beyond those defined above, interagency consultation will determine the parties responsible for conducting those analyses in accordance with 40 CFR 93.105(c)(2)(ii).

**b) Consultation and Notification Procedures for Conformity Analysis of TIP and TIP Amendments**

Federal conformity rules at 40 CFR Part 93 defines the criteria and procedures by which conformity will be established. Following OKI's notice that the TIP air quality conformity process has been initiated, OKI and Ohio DOT will coordinate the TIP transportation conformity interagency consultation process. Interagency consultation will include the same topics listed for the transportation plan (see section II. a) as well as the additional topics listed below in accordance with 40 CFR 93.105 (c).

- identification of exempt TIP projects;
- identification of exempt projects which should be treated as nonexempt; and
- determination of an interim TIP (in the event of a conformity lapse) inclusive of projects that can advance during a conformity lapse.

For TIP amendments, OKI and Ohio DOT will consult as identified below:

Consultation required in situations requiring a conformity determination, including but not limited to:

- add non-exempt, regionally significant project that has not been accounted for in the regional emissions analysis; and
- change in non-exempt, regionally significant project that is not consistent with the design concept and scope or the conformity analyses years.

The interagency consultation group will be provided an opportunity to review the draft TIP or TIP amendment conformity documentation concurrent with the TIP public involvement review period. OKI will respond to any questions or comments from the consultation parties within 10 days. After the public review period OKI will adopt the final TIP or TIP amendment and conformity determination. OKI will provide the final TIP or TIP amendment and conformity documentation to the affected state DOT(s). The affected state DOT(s) will forward the documents to FHWA/FTA for final review, incorporation into the STIP and U.S. DOT conformity determination as required by 40 CFR 93.105 (c)(7) and 23 CFR 450.322 of the FHWA/FTA Statewide and Metropolitan Planning rule. Copies of the final TIP or TIP amendment and conformity documentation will be made available on OKI's Web site.

### **III. Transportation Plan and Transportation Improvement Program Interagency Consultation Agency Roles and Responsibilities [40 CFR 93.105(b)(2)]**

#### **Ohio EPA, IDEM**

- Reviews and comments on all aspects of the conformity determinations for the TP and TIP in a timely manner;
- Develops, solicits input on and adopts motor vehicle emission budgets;
- Seeks U.S. EPA approval for the use of motor vehicle emissions factors and mobile source budgets in conformity analyses; and
- Reviews and comments on the transportation plan and TIP development documentation and associated air quality analyses in as agreed in this document.

#### **Ohio DOT, INDOT**

- Participates as a voting member of the OKI Board of Director's and committees as defined by the OKI agency bylaws;
- Project initiator for state sponsored transportation improvement projects in the OKI region;
- Works directly with OKI in providing and reviewing detailed project programming information;
- Defines the design concept and scope of state sponsored transportation improvement projects to conduct regional emissions analysis;
- Promptly notifies OKI of changes in design concept and scope, cost, and implementation year of regionally significant state sponsored projects;
- Assures project-level CO and PM hotspot analyses are included in OKI region transportation project NEPA documentation when required;
- Identifies and commits to project-level CO and PM mitigation measures for state sponsored transportation projects, as required;
- Implements TCMs for which Ohio DOT/KYTC/INDOT is responsible on the schedule that is found in the SIP;
- Maintains a list of TCMs in the SIP and progress toward implementing the TCMs;
- Works with local municipalities and other project sponsors to ensure that the above procedures are also implemented on locally sponsored highway projects; and
- Assists OKI with travel demand modeling and mobile source emissions estimating processes.

For STIP and STIP amendments exclusively involving projects within the Cincinnati-Middletown-Wilmington OH-KY-IN, Combined Statistical Area for NAAQS, but outside MPO boundaries, Ohio DOT, or INDOT will develop, coordinate, prepare and circulate conformity documentation for interagency consultation and public participation.

**OKI**

- Develops, coordinates, and circulates transportation plan and TIP supporting and technical documentation for interagency consultation and public participation;
- Conducts transportation plan/TIP and air quality conformity public participation processes;
- Maintains demographic and land use data for travel demand forecasting and regional emissions analysis;
- Works with Ohio DOT, INDOT and local sponsors to define the design concept and scope of projects in the transportation plan and TIP to conduct regional emissions analysis;
- Prepares transportation plan/TIP conformity documentation;
- Includes funding for SIP mandated TCMs in the transportation plan and TIP if required; and
- Adopts transportation plan/TIP, performs the regional emissions analysis and makes conformity determinations.

**MVRPC**, in the Cincinnati (Franklin, Carlisle, and Springboro) Air Quality Region:

- Develops, coordinates, and circulates transportation plan and TIP supporting and technical documentation for interagency consultation and public participation;
- Conducts transportation plan/TIP and air quality conformity public participation processes;
- Provides OKI with the design concept and scope of projects in the transportation plan and TIP to conduct regional emission analyses;
- Prepares transportation plan/TIP conformity documentation;
- Includes funding for SIP mandated TCMs in the transportation plan and TIP; and
- Adopts transportation plan/TIP and make conformity determinations.

In the Cincinnati (Franklin, Carlisle, and Springboro) Air Quality Region OKI will:

- Maintains demographic and land use data for travel demand forecasting and regional emissions analysis; and
- Conducts the analysis and prepare transportation plan/TIP conformity documentation.

If a new conformity determination is needed in the Cincinnati Air Quality Region due to transportation plan/TIP amendments in the MVRPC MPO only, MVRPC will be responsible for initiating interagency consultation and conducting the public participation process and OKI will conduct the conformity analysis and provide conformity documentation.

**U.S. EPA**

- Administers and provides guidance on the CAA and transportation conformity regulations;
- Determines adequacy of motor vehicle emissions budget used for making conformity determinations;
- Reviews and comments on transportation plan and transportation improvement program documentation in keeping with participation plan requirements; and
- Reviews and comments on conformity determinations for the transportation plans and transportation improvement programs.

**FHWA/FTA**

- Consults with U.S. EPA on transportation conformity determinations.
- Provides guidance on transportation planning regulations;
- Ensures that all transportation planning and transportation conformity requirements contained in 23 CFR Part 450 and 40 CFR Part 93, respectively, are met;
- Works with transit agencies to ensure that conformity procedures are implemented in transit agency-sponsored projects; and

- Makes transportation plan/TIP conformity determinations.

#### **IV. State Implementation Plan (SIP) Consultation Process [40 CFR 93.105]**

##### **a. SIP Consultation Structure and Process in Ohio**

Ohio EPA is responsible for preparing the SIP. If new transportation control strategies or TCMs are considered necessary to achieve and/or maintain federal air quality standards, the interagency consultation group will discuss possible TCMs for inclusion in the SIP. Ohio EPA will provide and update schedules for SIP development that will be available to all agencies and the public. Public involvement will be in accordance with Ohio EPA's public involvement procedures. Key documents will be posted on Ohio EPA's Web site. SIP development will normally cover inventory development, determination of emission reductions necessary to achieve and/or maintain federal air quality standards, transportation and other control strategies that may be necessary to achieve these standards, contingency measures, and other such technical documentation as required.

Ohio EPA is responsible for informing OKI of any TCMs in the SIP and OKI is responsible for maintaining a list of these TCMs and is responsible for tracking progress toward implementation and will share the list and implementation schedule with the interagency consultation parties. The interagency consultation parties will determine as required by 40 CFR 93.113(c) (1) whether past obstacles to implementation of TCMs, which are behind the schedule established in the SIP, have been identified and are being overcome. The interagency consultation group will assure that state and local agencies provide approval and funding priority to TCMs that are approved in the SIP. The interagency consultation group will also consider revisions to the SIP to remove TCMs or substitute TCMs or other emission reduction measures.

OKI and Ohio DOT develop the travel activity and emissions data that are used by Ohio EPA in establishing the on-road motor vehicle emission inventories for the SIP with consultation from Ohio EPA on the inputs for emission modeling.

If new transportation control strategies are considered that may aid the region to achieve and/or maintain federal air quality standards, Ohio EPA will provide OKI and Ohio DOT with guidance for estimating their impacts on regional emissions. This SIP process will define the motor vehicle emissions budget (MVEB), and its various components, that will be used for future conformity determinations of the TP and TIP. Prior to publishing the draft SIP, OKI, Ohio DOT, KYTC, KEPPC, INDOT and IDEM will have an opportunity to review and comment on the proposed MVEB.

In accordance with 40 CFR 93.105 (b)(2)(iii) and 40 CFR 93.105 (c)(7) Ohio EPA will circulate the draft SIP for public review, and all comments will be responded to in writing prior to adoption of the SIP. The draft will be amended as needed in response to comments received. Ohio EPA will then transmit the final document with amendments, along with the public notice, public hearing transcript and a summary of comments and responses, to U.S. EPA.

##### **b. Agency Roles and Responsibilities [40 CFR 93.105(b)(2)(i)]**

The following provides a summary on the roles and responsibilities of the different agencies with involvement in development and review of SIP submittals dealing with TCMs or emissions budgets.

**Ohio EPA, KEPPC, IDEM**

- Responsible for air quality monitoring, preparation and maintenance of detailed and comprehensive emissions inventories, air quality modeling, and other air quality planning and control responsibilities;
- Responsible for preparing drafts of SIP submittals, revising those drafts, incorporating other agencies' comments, attending and scheduling public hearings, preparing public hearing transcripts and responding to public comments;
- Responsible for timely SIP submittal to U.S. EPA; and
- Provides concurrence with TCM substitution in the SIP.

**Ohio DOT, KYTC, INDOT**

- Assists in developing regional travel demand forecasts used in the SIP mobile emissions inventories and analyses of new TCMs;
- Assists in developing mobile source inventories and analyses as needed; and
- Participates in reviewing and commenting on draft SIP documents.

**OKI**

- Responsible for developing regional transportation emissions analysis used in the SIP emissions inventories and analyses of new TCMs;
- Monitor and report on implementation of federal TCMs;
- Responsible for providing review and comments on draft SIP documents; and
- Provides concurrence with TCM substitution in the SIP.

**U.S. EPA**

- Receives the Ohio EPA SIP submittals and has the responsibility to act on them in a timely manner;
- Reviews and comments on submittals through various meetings, workshops and hearing that are conducted;
- Provides guidance on the CAA;
- Determines adequacy of motor vehicle emissions budget used for making TP/TIP conformity findings; and
- Provides concurrence with TCM substitution in the SIP.

**FHWA/FTA**

- Provides guidance on transportation planning regulation; and
- Participates in the SIP review and comment process.

*Please note: while these are key areas and agencies involved in the development of the SIP, participation in the SIP process by other agencies may occur.*

**V. Project-level Conformity Determinations for Carbon Monoxide (CO) and/or Fine Particulate Matter (PM) [40 CFR 93.105 (c)(1)(i)]**

Project sponsors are required to conduct project-level conformity analyses by the FHWA/FTA NEPA process. FHWA/FTA are responsible for making all project-level conformity determinations. FHWA/FTA, with the participation of U.S. EPA, identifies the applicable procedures for CO and/or PM analyses. Project sponsors should use the most recently identified procedures. In accordance with 40 CFR 93.105 (c)(1)(i) and other applicable regulations, Ohio DOT, KYTC and INDOT will determine the following:

1. That FHWA/FTA, with U.S. EPA review participation, has approved the project-level CO and/or PM conformity analyses which are included in the project's environmental document prior to initiating federal authorizations.
2. That the design concept and scope of the project has not changed significantly from that used by OKI, Ohio DOT, KYTC and INDOT in their most recent regional transportation conformity analyses of the TP and TIP.

The OKI governing board or policy committee may periodically review and participate with Ohio DOT, KYTC, INDOT and other agencies as appropriate in the update of the CO and/or PM analyses. Through the NEPA process, Ohio DOT, KYTC and INDOT may provide technical guidance to project sponsors who use these procedures.

#### **VI. Monitoring of Transportation Control Measures (TCMs)** **[40 CFR 93.105 (c)(1)(iv)]**

As part of the conformity documentation for a TP and/or TIP, OKI will identify the status of SIP TCMs. If TCM emissions reductions are included as part of the motor vehicle emissions budget, OKI will estimate the portion of emission reductions that have been achieved. If there are funding or scheduling issues for a SIP transportation control measure, OKI will describe the steps being undertaken to overcome these obstacles, including means to ensure that funding agencies are giving these TCMs maximum priority. OKI may propose substitution of a new TCM or TCMs for all or a portion of an existing TCM that is experiencing implementation difficulties (see section VII below).

#### **VII. Conflict Resolution [40 CFR 93.105 (d)]**

Conflicts between any parties of this MOU that arise during consultation will be resolved as follows:

1. A statement of the nature of the conflict will be prepared and agreed to by the conflicting parties and shared with the remaining signatories.
2. Disagreeing parties will consult in a good faith effort to resolve the conflict in a manner acceptable to all parties.
3. If they are unsuccessful, the directors of the signatory agencies or their designees shall meet to resolve differences in a manner acceptable to all parties.
4. If none of the above steps produces a satisfactory resolution, the directors of the signatory agencies have 14 days to appeal to the governor(s) of the affected states. OKI will send correspondence to the directors of the signatory agencies informing them that attempts to resolve the conflict have failed and they plan to proceed with their conformity decision or policy in conflict. The 14-day appeal period will commence on the first normal business day following Ohio EPA's and IDEM's receipt of correspondence (whichever is later) via Certified U.S. Mail and/or other certified delivery from OKI. The appeal period will expire at midnight of the 14th calendar day following receipt of such notice.
5. If a party other than Ohio EPA or IDEM appeals to the Governor, that participant must inform the Ohio EPA or IDEM of the Governor's response to the appeal. Ohio EPA or IDEM has an additional 14 calendar days from that notification of appeal to the Governor if it disagrees with the response. If Ohio EPA or IDEM appeals to their respective Governor, the final conformity

determination must have the concurrence of the Governor. If Ohio EPA or IDEM does not appeal to the Governor within 14 days, OKI may proceed with the final conformity determinations. The Governor may delegate his or her role in the process, but not to the head or staff of Ohio EPA, Ohio DOT, IDEM, INDOT or OKI.

#### **VIII. Public Consultation Procedures [40 CFR 93.105 (e)]**

OKI will follow its adopted public participation procedures when making conformity determinations on transportation plans and programs. These procedures establish a proactive public participation process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by OKI at the beginning of the public comment period and prior to taking formal action on a conformity determination for the TP and TIP, consistent with these requirements and those of 23 CFR 450.316(a). Meetings of OKI are open to the public. Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.43. These agencies also shall provide opportunity for public participation in conformity determinations for projects where otherwise required by law.



**MEMORANDUM OF UNDERSTANDING  
TRANSPORTATION CONFORMITY  
CONSULTATION PROCEDURES**

**Parties: OKI, MVRPC, Ohio EPA, Ohio DOT, IDEM, INDOT, FHWA, FTA and U.S.  
EPA**

**LIST of SIGNATORIES**

Note: Signatures appear on separate, multiple pages.

Mark Policinski  
Executive Director  
Ohio-Kentucky-Indiana Regional Council of Governments

Donald R. Spang  
Executive Director  
Miami Valley Regional Planning Commission

Robert J. Shook  
Chairperson

Chris Korleski  
Director  
Ohio Environmental Protection Agency

James G. Beasley, P.E., P.S.  
Director  
Ohio Department of Transportation

Daniel Murray  
Assistant Commissioner  
Indiana Department of Environmental Management, Office of Air Quality

Karl B. Browning  
Commissioner  
Indiana Department of Transportation

Dennis Decker  
Division Administrator  
Ohio Division  
Federal Highway Administration (*FHWA-OH is lead for U.S. DOT*)

Robert F. Tally, Jr., P.E.  
Division Administrator  
Indiana Division  
Federal Highway Administration

Marisol Simon  
Regional Administrator  
Region 5  
Federal Transit Administration

Mary Gade  
Regional Administrator  
Region 5  
U.S. Environmental Protection Agency

## **Memorandum of Understanding**

**among the**  
**Ohio-Kentucky-Indiana Regional Council of Governments, the**  
**Butler County Regional Transit Authority,**  
**City of Cincinnati for the Cincinnati Streetcar**  
**Clermont Transportation Connection,**  
**Middletown Transit Services, the**  
**Southwest Ohio Regional Transit Authority,**  
**Warren County Transit Service,**  
**and the**  
**Ohio Department of Transportation**  
**Concerning the Metropolitan Transportation Planning Process**

### **I. Purpose**

This Memorandum of Understanding (MOU) is the metropolitan planning agreement outlined in United States Department of Transportation (USDOT) metropolitan planning regulations (currently 23 CFR 450.314). This MOU is entered into by and between the Ohio-Kentucky-Indiana Regional Council of Governments (OKI), hereafter referred to as “the MPO”; the Butler County Regional Transit Authority (BCRTA), the City of Cincinnati for the Cincinnati Streetcar, the Clermont Transportation Connection (CTC), the Middletown Transit Services (MTS), the Southwest Ohio Regional Transit Authority (SORTA), and the Warren County Transit Service (WCTS), hereafter referred to as “the Public Transit Operator(s)”; and the Ohio Department of Transportation, hereafter referred to as “ODOT”, regarding their mutual responsibilities in carrying out the metropolitan transportation planning process for the Metropolitan Planning Area (MPA) designated to the MPO by the Governor of the State of Ohio pursuant to federal law concerning metropolitan transportation planning (currently 23 U.S.C. 134). The MPO, ODOT, and the Public Transit Operator(s) entering into this MOU hereafter may be referred to individually as “Party” or collectively as “the Parties.”

The City of Cincinnati hereby joins this Agreement solely on behalf of the Cincinnati Streetcar (a.k.a. “the Cincinnati Connector”). This Agreement shall not apply to and will not be binding or enforceable against any other City of Cincinnati department, entity, or agency.



In addition to this MOU, ODOT maintains the Ohio Metropolitan Planning Organization Administration Manual (MPO Manual) to assist the parties in understanding the requirements for the conduct of the metropolitan transportation planning process. The MPO Manual provides detailed information on procedures and schedules associated with the responsibilities identified in this MOU.

## II. Unified Planning Work Program and Completion Report

### A. General Responsibilities

On an annual basis, the MPO, in cooperation with ODOT and the Public Transit Operator(s), will develop a Unified Planning Work Program (UPWP) consistent with USDOT regulations (currently 23 CFR 450.308) and the MPO Manual. In addition to a discussion of the planning priorities facing the MPA, the UPWP will identify work proposed for the next state fiscal year (SFY) by major activity and task in sufficient detail to indicate who (e.g., the MPO, ODOT, Public Transit Operator(s), local government, or consultant) will perform the work, the schedule for completing the work, the resulting products, the proposed funding by activity/task, and a summary of the total amounts and sources of federal and matching funds. The UPWP will include all transportation-related planning activities, including air quality planning, regardless of the source of funding.

1. The Parties agree to cooperatively review their proposed work components to enhance coordination and avoid duplication of planning work efforts.
2. The Parties will work cooperatively with each other to develop a draft and final UPWP. Cooperation includes the responsibilities described in this MOU.

### B. ODOT Responsibilities

1. ODOT will initiate UPWP development for the next state fiscal year with a notification to the MPO that will include estimated budgets for planning, any planning priorities ODOT has identified, the Title VI Baseline Assessment Tool (Title VI questionnaire), and due dates for submittals of the draft and final UPWP to ODOT. The estimated budget will include the Consolidated Planning Grant (CPG) amount, i.e., allocations of federal transportation planning funds (currently Federal Highway Administration (FHWA) Metropolitan Planning (PL) funds and Federal Transit Administration (FTA) Section 5303 funds), and any state-administered funds that ODOT has made available to the MPO.
2. ODOT will review the draft UPWP for compliance with federal and state requirements and will provide comments to the MPO as necessary within a reasonable amount of time to allow for coordination prior to the due date.



3. ODOT will coordinate review of the draft UPWP with USDOT.
4. ODOT will notify the MPO of the final CPG budget once it is available.
5. ODOT will review work program amendment requests and coordinate approval with USDOT as necessary. Guidance on what requests require an amendment, and what amendments require USDOT approval, are included in the MPO Manual.
6. ODOT will review UPWP completion reports and will provide comments as necessary.
7. ODOT will forward a copy of the MPO's UPWP completion report to the FHWA Ohio Division for their records.

### **C. The MPO Responsibilities**

1. The MPO will submit the draft and final UPWP to ODOT and the Public Transit Operator(s) by the deadlines ODOT provides at the initiation of UPWP development. The MPO will submit a completed Title VI questionnaire with the draft UPWP submittal.
2. The MPO will identify any CPG funds allocated in a previous SFY that will be used in the next SFY, known as "carryover" funds, separately from the next year's allocation, as described in the MPO Manual.
3. The MPO will identify any planning work to be funded with Surface Transportation Block Grant (STBG) or Congestion Mitigation and Air Quality (CMAQ) funds in the UPWP budget table separately from CPG-funded planning activities, as described in the MPO Manual.
4. The MPO will coordinate public participation in the development of the UPWP consistent with the MPO's Public Participation Plan.
5. The MPO will provide ODOT with a signed resolution approving the final UPWP.
6. The MPO will modify the UPWP as needed for changes occurring during the SFY in accordance with its adopted operational procedures. The MPO will coordinate all modifications to the UPWP with the relevant Party and obtain approvals from ODOT and USDOT as necessary per the MPO Manual.
7. The MPO will publish an annual completion report detailing the work accomplished during that SFY relative to what was identified in the corresponding UPWP. The completion report must be submitted to ODOT within ninety (90) days of the conclusion of the SFY.



## **D. The Public Transit Operator(s) Responsibilities**

1. The Public Transit Operator(s) will identify transit planning activities that will occur in the next SFY and will provide a description of these activities to the MPO to include in the UPWP. These activity descriptions will be provided to the MPO with a reasonable amount of time to allow for coordination prior to the due date for the MPO's draft UPWP submittal to ODOT.
2. The Public Transit Operator(s) will notify the MPO of any changes to the UPWP during the SFY and coordinate any necessary modifications with the MPO.
3. The Public Transit Operator(s) will detail the work that was completed in the previous SFY and provide a report of those accomplishments to the MPO with a reasonable amount of time to allow for coordination prior to the due date for the MPO's completion report submittal to ODOT.

## **III. Metropolitan Transportation Plan**

### **A. General Responsibilities**

The Metropolitan Transportation Plan (MTP) is an important statement of the direction the region will be taking in transportation system investment. The MTP identifies the multimodal and intermodal transportation policies and facilities needed to meet the MPO's travel demand for a minimum 20-year planning horizon. The MTP should include both short- and long-term strategies designed to result in an integrated transportation system that facilitates the efficient movement of people and goods. "Update means making current a long-range statewide transportation plan, metropolitan transportation plan, TIP, or STIP through a comprehensive review" (Update). 23 CFR 450.104

The MTP is required to have a financial plan that demonstrates fiscal constraint. The financial plan shows how the strategies and projects in the MTP can be implemented. One key part of the financial plan is to identify the necessary financial resources from public and private sources that are reasonably expected to be available to carry out the MTP. To demonstrate fiscal constraint, the cost of the projects and strategies in the MTP cannot exceed the funding reasonably expected to be available over the life of the MTP.

The Parties will work cooperatively during the development of the MTP Update to promote consistency between the MTP, ODOT's long-range statewide transportation plan, and the Public Transit Operator's(s') long-range transit plan. The Parties will coordinate their MTP-related planning activities and studies with each other to promote consistency between metropolitan, transit, and statewide planning strategies and



outcomes. This includes mutual consideration of visions and priorities articulated in each Party's transportation planning documents and project identification processes.

## **B. ODOT Responsibilities**

1. ODOT will cooperate with the MPO and the Public Transit Operator(s) in the development of the MTP and participate in the MPO's plan development process.
2. ODOT will cooperate with the MPO and the Public Transit Operator(s) in the development of the MTP financial plan. Upon request, ODOT will provide information to the MPO to assist it in developing forecasts of federal and state funds that will be available for the transportation system in the future.
3. ODOT will provide data available from statewide transportation planning efforts to the MPO for use in the development of the MTP.
4. ODOT will monitor internal plans, studies, and other activities to identify potential amendments to the MTP and inform the MPO and the Public Transit Operator(s) accordingly.

## **C. The MPO Responsibilities**

1. The MPO will lead the development of the MTP in cooperation with ODOT and the Public Transit Operator(s).
2. The MPO will develop a schedule that ensures the MTP Update will be completed and adopted by a resolution of the MPO prior to the federal deadline.
3. The MPO will cooperate with ODOT and the Public Transit Operator(s) in the development of the MTP financial plan that demonstrates fiscal constraint. The MPO will consider information provided by ODOT and the Public Transit Operator(s) in developing forecasts of funds that are expected to be available in the future. The MPO will estimate the local resources and any other sources of funds expected to be available in the future for the transportation system in the MPA.
4. The MPO will continuously monitor plans, studies, and other activities in the MPA to identify potential amendments to the MTP.
5. The MPO is responsible for making air quality conformity determinations for the MTP. The MPO will review plan components and amendments to assess the need for an air quality conformity determination. See Section VIII for each Party's responsibilities as to air quality conformity.



## **D. The Public Transit Operator(s) Responsibilities**

1. The Public Transit Operator(s) will cooperate with ODOT and the MPO in the development of the MTP and participate in the MPO's plan development process.
2. The Public Transit Operator(s) will cooperate with ODOT and the MPO in the development of the MTP financial plan. The Public Transit Operator(s) will provide to the MPO system-level estimates of the costs to adequately operate and maintain the transit system and the funds that are reasonably expected to be available for the transit system over the life of the MTP.
3. If the Public Transit Operator(s) has a long-range transit plan, it will provide data from the plan to the MPO as requested for use in the development of the MTP.
4. The Public Transit Operator(s) will monitor internal plans, studies, and other activities to identify potential MTP amendments and inform the MPO accordingly.

## **IV. Transportation Improvement Program**

### **A. General Responsibilities**

The MPO, in cooperation with ODOT and the Public Transit Operator(s), shall develop a Transportation Improvement Program (TIP) for the MPA. The TIP shall reflect the investment priorities established in the current MTP and shall cover a period of no less than four years, be updated at least every four years, and be approved by the MPO and the Governor.

Similarly, ODOT must develop a Statewide Transportation Improvement Program (STIP), in cooperation with the MPO. To cooperate efficiently and effectively, Ohio metropolitan planning organizations develop TIP Updates to coincide with the STIP Update, and ODOT incorporates the TIPs into the STIP directly or by reference. The STIP and TIPs collectively, either as documents or a process, are referred to as the S/TIP in this MOU. ODOT's regular practice is to update the STIP every two years, with the Update becoming effective by July 1 of odd-numbered years. ODOT may change this practice at its discretion, but only in a manner that is consistent with this MOU.

The TIP shall be designed such that once implemented, it makes progress toward achieving the performance targets described in Section VI of this MOU. The TIP shall include capital and non-capital surface transportation projects (or phases of projects) proposed for federal transportation funding (under 23 U.S.C. and 49 U.S.C. Chapter 53) within the boundaries of the MPA. The TIP shall also contain all regionally significant projects in accordance with the applicable laws and regulations.

## B. ODOT Responsibilities

1. ODOT will inform the MPO and the Public Transit Operator(s) of the anticipated date of the next STIP Update as soon as it has determined the date and will inform the Parties of any changes to the anticipated date.
2. ODOT, in cooperation with the MPO and the Public Transit Operator(s), will develop a schedule and guidance for the cooperative development of the S/TIP and provide them to the MPO and the Public Transit Operator(s) at the initiation of the STIP Update process.
3. ODOT will maintain the fiscal constraint of the STIP. ODOT will provide the MPO and the Public Transit Operator(s) financial information and project data for ODOT-controlled programs, which will be fiscally constrained to resources that are reasonably expected to be available for use within the MPA to carry out the TIP.
4. ODOT will provide the MPO and the Public Transit Operator(s) with applicable statewide and regional performance measures information for use in TIP development, including baselines, state targets, and projects within the MPA impacting each performance metric.
5. ODOT will coordinate reviews of drafts of the TIP Update in accordance with the S/TIP schedule.
6. ODOT will conduct a public involvement process for the STIP in accordance with its documented public involvement process (currently the Statewide Planning Program Public Involvement Process). ODOT will coordinate with the MPO and the Public Transit Operator(s) on the public involvement process for the S/TIP.
7. ODOT will review and approve the TIP on behalf of the Governor.
8. ODOT will coordinate with the MPO and the Public Transit Operator(s) to maintain and share data for projects (or project phases) scheduled for the current TIP period. ODOT will coordinate with the MPO and the Public Transit Operator(s) to identify needed TIP revisions.
9. ODOT will coordinate with the MPO and the Public Transit Operator(s) to revise the S/TIP in accordance with guidelines approved by ODOT, FHWA, and FTA (currently the Ohio STIP Revisions Guidelines). ODOT will coordinate with the MPO and the Public Transit Operator(s) on any TIP revisions needed to maintain fiscal constraint on ODOT-controlled programs.





## C. The MPO Responsibilities

1. The MPO will cooperate with ODOT and the Public Transit Operator(s) on the schedule for the coordinated development of the S/TIP.
2. The MPO will maintain the fiscal constraint of the TIP. The MPO will provide ODOT and the Public Transit Operator(s) financial information and project data for MPO-controlled programs, which will be fiscally constrained to resources that are reasonably expected to be available.
3. The MPO will include applicable statewide and regional performance measures information in the TIP, including baselines and targets. The MPO will also include the effect the TIP's program of projects will have on achieving the performance targets identified in the MTP.
4. The MPO will submit draft(s) and the final TIP Update to ODOT in accordance with the S/TIP schedule for ODOT to coordinate reviews.
5. The MPO will conduct a public involvement process for the TIP in accordance with its public participation plan as required by 23 CFR 450.316. The MPO will coordinate with ODOT and the Public Transit Operator(s) on the public involvement process for the S/TIP.
6. With the submittal of the final TIP Update to ODOT, the MPO will submit a signed and dated MPO resolution(s) that approve the TIP, certify that the metropolitan transportation planning process is being carried out in accordance with all applicable requirements (self-certification), affirm that the TIP is consistent with the MTP, and, if applicable, make an affirmative air quality conformity determination.
7. The MPO will coordinate with ODOT and the Public Transit Operator(s) to maintain and share data for projects (or project phases) scheduled for the current TIP period. The MPO will coordinate with ODOT and the Public Transit Operator(s) to identify needed TIP revisions.
8. The MPO will coordinate with ODOT and the Public Transit Operator(s) to revise the S/TIP in accordance with guidelines approved by ODOT, FHWA, and FTA (currently the Ohio STIP Revisions Guidelines). The MPO will coordinate S/TIP revisions with ODOT and the Public Transit Operator(s) as needed to maintain fiscal constraint of the TIP.
9. The MPO will submit signed resolutions to amend the TIP by the due date established by ODOT in consultation with the MPO. Amendment resolutions will include content required by the MPO Manual.



10. The MPO is responsible for making air quality conformity determinations for the TIP. See Section VIII for each Party's responsibilities with respect to air quality conformity.

#### **D. The Public Transit Operator(s) Responsibilities**

1. The Public Transit Operator(s) will cooperate with ODOT and the MPO on the schedule for the coordinated development of the S/TIP.
2. The Public Transit Operator(s) will review fiscal constraint information provided by the ODOT and the MPO. The Public Transit Operator(s) will coordinate with ODOT and the MPO on any modifications to the fiscal constraint information.
3. The Public Transit Operator(s) will provide ODOT and the MPO financial information and project data for programs controlled by the Public Transit Operator(s), which will be fiscally constrained to resources that are reasonably expected to be available within the MPA to carry out the TIP.
4. The Public Transit Operator(s) will provide applicable performance measures information to the MPO, including baselines and targets. The Public Transit Operator(s) will also include the effect the TIP's program of projects will have on achieving the performance targets identified in the MTP.
5. The Public Transit Operator(s) will coordinate with ODOT and the MPO on the public involvement process for the TIP.
6. The Public Transit Operator(s) will coordinate with ODOT and the MPO to maintain and share data for projects (or project phases) scheduled for the current TIP period. The Public Transit Operator(s) will coordinate with ODOT and the MPO to identify needed TIP revisions.
7. The Public Transit Operator(s) will coordinate with ODOT and the MPO to revise the S/TIP in accordance with the Ohio STIP Revisions Guidelines. The Public Transit Operator(s) will coordinate S/TIP revisions with ODOT and the MPO as needed to maintain fiscal constraint of TIP.

### **V. Annual Listing of Obligated Projects**

#### **A. General Responsibilities**

Each year, the Parties will cooperatively develop a listing of projects for which federal transportation funding (under 23 U.S.C. and 49 U.S.C. Chapter 53) were obligated in the preceding SFY. This listing will be published by the MPO within 90 calendar days of the

end of the SFY and include all federally funded projects that were either authorized or revised to increase obligations in the previous year. For each project, the listing will include the information in the TIP, the amount of federal funds requested in the TIP, the federal funding that was obligated during the preceding year, and the federal funding remaining and available for subsequent years.

## **B. ODOT Responsibilities**

1. ODOT will provide data to the MPO for use in producing the annual listing of obligated projects. They will be made available as soon as possible following the end of each SFY. The data will include federal funding that was obligated to highway and transit projects during the preceding state fiscal year.

## **C. The MPO Responsibilities**

1. The MPO is responsible for the following project data: project information in the TIP, the amount of federal funds requested in the TIP, and the federal funding remaining and available for subsequent years.
2. The MPO will publish a list of obligated projects within 90 calendar days of the end of the SFY.

## **D. The Public Transit Operator(s) Responsibilities**

1. The Public Transit Operator(s) will provide to ODOT and the MPO upon request the information needed to produce the annual listing of obligated projects.

# **VI. Performance-Based Planning**

Section VI. of this MOU supersedes the 2018 MOU executed by the Parties regarding Performance Based Transportation Planning Processes.

## **A. General Responsibilities**

1. The Parties will cooperatively develop and share information related to: transportation performance data, the selection of performance targets, the reporting of performance targets, the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region of the MPO (see 23 CFR 450.306(d)), and the collection of data for the ODOT asset management plan.
2. The Parties will use data sources and methodologies consistent with federal regulations for performance-based planning and programming.



3. Unless otherwise agreed to in writing, ODOT and the MPO agree to use the following data sources and methodologies for performance-based planning and programming:
  - a. Data from the Ohio Department of Public Safety (ODPS) Statewide Crash Report System will be used to inform the selection of safety targets and measure actual performance.
  - b. Travel time data needed to calculate the measures of Travel Time Reliability, Freight Reliability, and Peak Hour Excessive Delay (PHED) per Capita will come from the National Performance Management Research Data Set (NPMRDS).
  - c. The reporting segments needed to calculate the measures of Travel Time Reliability, Freight Reliability, and PHED will be the Travel Time Segments in the NPMRDS.
  - d. The calculation of the PHED measure will use an afternoon peak period of 3 p.m. to 7 p.m.
  - e. The data to determine the Percent of Non-SOV Travel measure (where SOV means single occupancy vehicle) will be developed using the U.S. Census Bureau's American Community Survey.

## **B. ODOT Responsibilities**

1. ODOT will coordinate with the MPO and the Public Transit Operator(s) on the selection and adjustment of federal performance targets to ensure consistency, to the maximum extent practicable. Coordination may include in-person, written, oral, or electronic communications, or the sharing of data, analyses, or methodologies.
2. ODOT will provide the MPO and the Public Transit Operator(s) with draft targets relevant to each party within a reasonable amount of time for review, comment, and coordination among the Parties in order to establish or adjust those targets prior to the federal deadlines.
3. ODOT will make the data used to develop performance targets and obtain metrics (quantifiable indicators of performance or condition) available to the MPO and the Public Transit Operator(s) upon request.
4. ODOT will review draft targets provided by the MPO and the Public Transit Operator(s) and provide any relevant comments within a reasonable amount of time prior to the federal deadlines for coordination between the MPO and the Public Transit Operator(s) to establish or adjust those targets.



### C. The MPO Responsibilities

1. The MPO will coordinate with ODOT and the Public Transit Operator(s) on the selection and adjustment of federal performance targets to ensure consistency, to the maximum extent practicable. Coordination may include in-person, written, oral, or electronic communications, or the sharing of data, analyses, or methodologies.
2. The MPO will review draft targets provided by ODOT and the Public Transit Operator(s) and provide any relevant comments within a reasonable amount of time prior to the federal deadlines for coordination between ODOT and the Public Transit Operator(s) to establish or adjust those targets.
3. The MPO will provide ODOT and the Public Transit Operator(s) with draft targets relevant to each Party within a reasonable amount of time for review, comment, and coordination among the Parties to establish or adjust those targets prior to the federal deadlines.
4. The MPO will make the data and methodologies used by the MPO to develop performance targets and metrics available to a Party upon request.
5. The MPO will provide ODOT and the Public Transit Operator(s) with a signed resolution from the MPO establishing the final targets prior to the federal deadlines to report those targets.

### D. The Public Transit Operator(s) Responsibilities

1. The Public Transit Operator(s) will coordinate with ODOT and the MPO on the selection and adjustment of federal performance targets to ensure consistency, to the maximum extent practicable. Coordination may include in-person, written, oral, or electronic communications, or the sharing of data, analyses, or methodologies.
2. The Public Transit Operator(s) will provide ODOT and the MPO with draft targets relevant to each Party within a reasonable amount of time for review, comment, and coordination among the Parties prior to the federal deadlines to establish or adjust those targets.
3. The Public Transit Operator(s) will make the data and methodologies used to develop performance targets and obtain metrics (quantifiable indicators of performance or condition) available to a Party upon request.
4. The Public Transit Operator(s) will review draft targets provided by ODOT and the MPO and provide any comments relevant to each Party within a reasonable

amount of time for coordination among the Parties prior to the federal deadlines to establish or adjust those targets.

5. The Public Transit Operator(s) will notify the relevant Party when performance targets and metrics are submitted to USDOT.
6. The Public Transit Operator(s) will provide ODOT and the MPO with a copy of its Transit Asset Management Plan every time it is updated and its Public Transit Agency Safety Plan every time it is updated.
7. The Public Transit Operator(s), as applicable, will provide ODOT and the MPO with data for the percent of track segments that have performance restrictions.

## VII. Travel Demand Modeling

### A. General Responsibilities

1. A regional travel demand model has been established for the MPO. If the MPA includes an area where quantitative Air Quality Conformity Analysis is required, the Parties will cooperate to maintain a state-of-the-practice regional travel demand model. In the event that quantitative Air Quality Conformity Analysis is no longer required, the Parties may agree that the Statewide Travel Demand Model is sufficient for the planning needs of the MPA.
2. The Parties will coordinate with each other on model runs needed for the planning process and ODOT project design forecasts.
3. The Parties will work cooperatively to collect and update input data for the model so that it accurately reflects local conditions and adheres to adopted Ohio guidelines, including population control totals by county. The MPO and ODOT will cooperatively determine if there are to be any deviations from default methods or input data, such as alternative population projections.

### B. ODOT Responsibilities

1. ODOT will consult with the MPO to determine what models will be used for each project and which Party will conduct the modeling.
2. ODOT will allow the MPO one month to perform the modeling if the MPO can do so. ODOT may authorize a longer time frame for the MPO to perform the modeling and will determine the time frame based on the project schedule or the modeling complexity.



3. ODOT will transmit a full working copy of the updated model to the MPO whenever ODOT substantially changes the model. A substantial change and the content of the submission is defined in the MPO Manual.
4. ODOT will transmit a traffic assignment model to the MPO in each SFY that ODOT enacts model updates unless it has transmitted a full working copy of the updated model to the MPO in the same year. The content of the submission is defined in the MPO Manual.
5. ODOT will transmit the model inputs and outputs to the MPO whenever ODOT conducts modeling for a specific ODOT project. The content of the submission is defined in the MPO Manual. ODOT will maintain the model and its inputs used for project modeling requests for at least one year (or as agreed upon for the project). ODOT will consult with the MPO and the Public Transit Operator(s) on additional analysis needs and alternatives during the project development process.
6. ODOT will allow the MPO two weeks to do the project-specific modeling for use in Design Traffic Forecasts or planning studies if the MPO has maintained the project modeling and is able to provide consistent modeling results as needed. ODOT may authorize a longer time frame based on the project schedule or the modeling complexity.
7. ODOT may modify the MPO travel demand model to meet its specific planning purposes. When such modifications are made, ODOT will: 1) provide a written list of the modifications to the MPO; and 2) not portray the modified model publicly or privately as the MPO travel demand model, unless prior written consent is provided by the MPO.
8. ODOT and/or its consultants will perform any travel demand modeling in the region consistent with the regional travel demand model.
9. In order to reflect the most complete information possible, ODOT will supply traffic counts, trip distribution estimates, trip assignments, crash data, and information concerning detected bottlenecks or delays on the state system and will supply the information on an as-needed basis. This does not preclude the MPO from collecting additional information.
10. ODOT will support a travel demand model users' group to provide ongoing coordination with modelers in the planning partner agencies, local governments, and their consultants.

### **C. The MPO Responsibilities**

1. The MPO will perform model runs unless otherwise agreed to in writing.





2. The MPO will transmit a full working copy of the updated model to ODOT whenever the MPO substantially changes the model. A substantial change and the content of the submission is defined in the MPO Manual.
3. The MPO will transmit a traffic assignment model to ODOT in each SFY that the MPO enacts model updates unless it has transmitted a full working copy of the updated model to ODOT in the same year. The content of the submission is defined in the MPO Manual.
4. The MPO will transmit the model inputs and outputs to ODOT whenever the MPO performs modeling for a specific ODOT project. The content of the submission is defined in the MPO Manual. The MPO will maintain the model and its inputs used for project modeling requests for at least one year (or as agreed upon for the project). The MPO will consult with ODOT and the Public Transit Operator(s) on additional analysis needs and alternatives during the project development process.
5. The MPO will develop, maintain, and update the regional travel demand model that is used for the MTP and TIP, transportation studies, and for evaluating transportation-related air quality impacts within the MPA (if applicable).
6. The MPO will consult with ODOT regarding various modeling issues, including software platforms, data requirements, and overall model performance for such regional travel demand model.
7. The MPO will provide the model and information from the model to ODOT for planning purposes. The regional travel demand model developed by the MPO for these purposes will be used for the purposes of regional transportation planning, programming, and air-quality conformity analysis. Data requests from ODOT for model information will be jointly coordinated and processed according to the MPO's established data request policy.
8. The MPO will utilize the regional travel demand model for evaluating the performance of the region's transportation system and to assess proposed strategies for the MTP and TIP. The MPO will also utilize the regional travel demand model for environmental justice analyses and, if applicable, air quality analyses.
9. The MPO will provide information from the regional travel demand model to support studies and other analyses by ODOT and the Public Transit Operator(s).
10. The MPO will assist ODOT and the Public Transit Operator(s) in reviewing modeling approaches for consistency with the regional travel demand model.



## **D. The Public Transit Operator(s) Responsibilities**

1. The Public Transit Operator(s) will consult with ODOT and the MPO on additional analysis needs and alternatives during the iterative design process.
2. The Public Transit Operator(s) and/or its consultants will perform any travel demand modeling in the region consistent with the regional travel demand model.
3. The Public Transit Operator(s) will share available boarding/alighting and route specific ridership data as needed, including on-board survey data. If data is not available, the Public Transit Operator(s) will coordinate with the MPO to acquire data to support travel demand modeling needs.

## **VIII. Air Quality Conformity**

### **A. General Responsibilities**

Transportation conformity is required by Clean Air Act Section 176(c) (42 U.S.C. 7506(c)) to ensure that federal funding and approval are given to highway and transit projects that are consistent with—"conform to"—the air quality goals established by the Ohio Environmental Protection Agency's State Implementation Plan (SIP). For ODOT and the MPO, conformity means that transportation activities that compose the MTP and S/TIP will not cause new air quality violations, worsen existing violations, or delay timely attainment of the National Ambient Air Quality Standards (NAAQS). Conformity requirements apply in areas that either do not meet or previously have not met NAAQS. It is the responsibility of both the MPO and ODOT to participate in the conformity process to meet the NAAQS for any non-attainment or maintenance region.

1. The Parties and other metropolitan planning organizations in the air quality region will cooperatively determine the need to initiate an air quality conformity process.
2. The Parties will fulfill their roles and responsibilities for interagency consultation as documented in the current SIP MOU.
3. The Parties and other project sponsors will work cooperatively to define the design concept and scope of projects in the MTP and TIP to conduct regional emissions analyses.

### **B. ODOT Responsibilities**

1. ODOT will use the latest planning assumptions and emissions model when conducting regional emissions analyses.



2. ODOT will transmit formal requests for new regional conformity determinations to FHWA.
3. ODOT will provide the MPO staff with a copy of the USDOT conformity letter.

### **C. The MPO Responsibilities**

1. The MPO will initiate the conformity process and prepare documentation describing the transportation action prompting the need for a new conformity determination.
2. The MPO will document the procedures and parameters by which conformity will be established as determined through interagency consultation and distribute them to all involved parties for concurrence.
3. The MPO will use the latest planning assumptions and emissions model when conducting regional emissions analyses.
4. The MPO will coordinate public participation in the conformity determination consistent with the MPO's Public Participation Plan.
5. The MPO will document within a resolution that it has determined the conformity of its plans and programs to the SIP and will provide that documentation with its request to ODOT for a USDOT conformity determination.
6. The MPO will send requests for a USDOT conformity determination to ODOT. The request will include documentation of planning, conformity, and public participation and the resolution(s).

### **D. The Public Transit Operator(s) Responsibilities**

See General Responsibilities in Section A.

## **IX. Coordinated Public Transit-Human Services Transportation Plan**

Areas must have a Coordinated Public Transit-Human Service Transportation Plan (Coordinated Plan) to be eligible to expend FTA Section 5310 funds.

### **A. General Responsibilities**

1. The Parties will work cooperatively to ensure that the extent of the MPA has a Coordinated Plan(s) that satisfies the eligibility requirements for FTA Section 5310 funds.



2. The Parties will integrate the applicable Coordinated Plan(s) with the transportation planning activities that include the MPA.
3. The Parties will work cooperatively to develop, review, and update the Coordinated Plan(s) that include the MPA as needed.

## **X. Public Participation Plan**

### **A. General Responsibilities**

The MPO will develop and use a documented participation plan that defines a process for providing individuals, affected public agencies, representatives of public transportation employees, public ports, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with reasonable opportunities to be involved in the metropolitan transportation planning process.

### **B. ODOT Responsibilities**

1. ODOT will cooperate with the MPO and the Public Transit Operator(s) to develop and maintain the Public Participation Plan for use in the metropolitan planning process.
2. To coordinate effective planning and programming activities, ODOT, to the maximum extent practicable, will coordinate public information efforts with the MPO and the Public Transit Operator(s), and seek joint opportunities for public involvement.
3. ODOT will use strategies from the Public Participation Plan as part of planning studies and project development activities in the MPA.

### **C. The MPO Responsibilities**

1. The MPO will cooperate with ODOT and the Public Transit Organization(s) to develop and maintain the Public Participation Plan for use in the metropolitan planning process.
2. The MPO will initiate periodic reviews of the effectiveness of the Public Participation Plan strategies and may suggest updates to the Public Participation Plan in cooperation with ODOT and the Public Transit Organization(s).



3. The MPO will follow the Public Participation Plan in its planning and programming work so that the public is adequately and appropriately engaged in planning and project development activities in the MPA.
4. To coordinate effective planning and programming activities, the MPO, to the maximum extent practicable, will coordinate public information efforts with ODOT and the Public Transit Organization(s), and seek joint opportunities for public involvement.

#### **D. The Public Transit Operator(s) Responsibilities**

1. The Public Transit Operator(s) will cooperate with ODOT and the MPO to develop and maintain the Public Participation Plan for use in the metropolitan planning process.
2. The Public Transit Operator(s) will use strategies from the Public Participation Plan as part of planning studies and project development activities in the MPA.
3. To coordinate effective planning and programming activities, the Public Transit Operator, to the maximum extent practicable, will coordinate public information efforts with ODOT and the MPO, and seek joint opportunities for public involvement.

### **XI. Coordinating Planning Processes Across MPA Boundaries**

#### **A. General Responsibilities**

If more than one metropolitan planning organization has been designated to serve an urbanized area, the metropolitan transportation planning processes will be coordinated to assure the development of consistent MTPs and TIPs across the MPA boundaries, particularly in cases in which a proposed transportation investment extends across the boundaries of more than one MPA. The metropolitan transportation planning processes for affected metropolitan planning organizations should, to the maximum extent possible, reflect coordinated data collection, analysis, and planning assumptions across the MPAs.

1. The Parties will share available information, such as GIS layers, shapefiles, databases, and other applicable electronic data along common boundaries for the purpose of travel demand model development, calibration, and other analytical applications as requested, practicable, and subject to agency-level policies, procedures, and agreements.



2. The Parties will coordinate the collection and analysis of data regarding travel patterns to, through, and among adjacent MPAs. Examples include traffic counts, household surveys, “big data” acquisition (e.g., cell phone origin-destination data or travel speed data).
3. The Parties will share and coordinate the latest estimates, projections, and planning assumptions related to population, employment, land use, travel, transit, congestion, and economic activity for long-range planning applications, such as congestion management processes.
4. The Parties will exchange information and expertise in matters of mutual concern. This includes each agency ensuring the notification of, and participation in, meetings concerned with matters of mutual interest, and collaboration on projects and studies with other parties that share transportation corridors, service routes, and assets spanning MPA boundaries.

## **B. ODOT Responsibilities**

See General Responsibilities in Section A.

## **C. The MPO Responsibilities**

1. The MPO retains responsibility and authority for the metropolitan planning process carried out in its MPA.
2. The MPO will conduct cross-boundary coordination of matters affecting the Congestion Management Process, including monitoring activities and the sharing of relevant data (e.g., traffic counts, park and ride facilities, and transit use to and from adjoining MPAs).

## **D. The Public Transit Operator(s) Responsibilities**

1. The Public Transit Operator(s) will coordinate with relevant metropolitan planning organizations as appropriate to share service information, ridership data, and other data for use in the planning process, including in the congestion management process.
2. The Public Transit Operator(s) will coordinate with relevant metropolitan planning organizations on planning and programming for investments, including services, that cross MPA boundaries.



## XII. Updating, Modifying, or Terminating the MOU

This MOU constitutes the mutual responsibilities for carrying out the metropolitan transportation planning process per 23 CFR 450.314. Any changes or modifications to this MOU shall be made and agreed to in writing by all Parties.



## XIII. Signatures

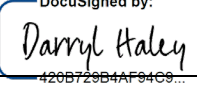
Any person executing this MOU in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this MOU on such principal's behalf.

Any Party hereto may deliver a copy of its counterpart signature page to this MOU via fax or e-mail. Each Party hereto shall be entitled to rely upon a facsimile signature of any other Party delivered in such a manner as if such signature were an original.

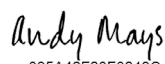
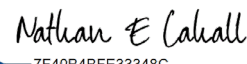
This MOU may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

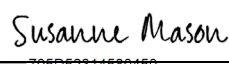
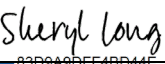
### Signatures:

Ohio-Kentucky-Indiana Regional Council of Governments	Ohio Department of Transportation
DocuSigned by: X  0350F001EA01479...	X 
Mark Policinski Chief Executive Officer	Pamela Boratyn Director
Date: 10/22/2024	Date: 1/8/2025

Southwest Ohio Regional Transit Authority	Butler County Regional Transit Authority
DocuSigned by: X  420B723B4AF94C9...	Signed by: X  0CA1772500404B1...
Darryl Haley Chief Executive Officer and General Manager	Matthew Dutkevich Executive Director
Date: 10/23/2024	Date: 11/20/2024



Clermont Transportation Connection	Middletown Transit Services
<div>Signed by:</div> <div>X </div> <div>635A42F20F0249C...</div>	<div>Signed by:</div> <div>X </div> <div>7F40B4BFE33348C...</div>
<div>Andy Mays</div> <div>Director</div>	<div>Nathan Cahall</div> <div>Acting City Manager</div>
Date: 10/24/2024	Date: 10/25/2024

Warren County Transit Service	City of Cincinnati for the Cincinnati Streetcar
<div>Signed by:</div> <div>X </div> <div>705D52314580450...</div>	<div>Signed by:</div> <div>X </div> <div>63D9A9BFF4BD44E...</div>
<div>Susanne Mason</div> <div>Program Manager</div>	<div>Sheryl M.M. Long</div> <div>City Manager</div>
Date: 10/28/2024	Date: 10/29/2024

For Use by ODOT Office of  
Chief Legal Counsel Only:

dtgl

Date Reviewed: 1-3-25



**MEMORANDUM OF AGREEMENT BETWEEN  
KENTUCKY TRANSPORTATION CABINET,  
TRANSIT AUTHORITY OF NORTHERN KENTUCKY,  
AND  
OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS;  
METROPOLITAN TRANSPORTATION PLANNING PROCESS**

This Memorandum of Agreement (MOA), made and entered into by and between the Ohio-Kentucky-Indiana Regional Council of Governments (hereinafter referred to as the MPO), the Transit Authority of Northern Kentucky (hereinafter referred to as TANK), and the Kentucky Transportation Cabinet (hereinafter referred to as KYTC), which are collectively hereinafter referred to as the AGENCIES,

**WITNESSETH**

**WHEREAS**, the MPO is the designated metropolitan planning organization serving a metropolitan planning area, hereinafter referred to as the MPA, which includes the Kentucky portion of the Cincinnati urbanized area; and

**WHEREAS**, TANK is a provider of public transit serving the MPA; and

**WHEREAS**, 23 C.F.R. §450.314 requires the MPO(s), state(s), and providers of public transportation serving an MPA to cooperatively determine their mutual responsibilities in carrying out the metropolitan planning process and identify those responsibilities in written agreements,

**NOW THEREFORE**, the AGENCIES hereby agree as follows:

**Section 1. Geographic Scope:** As of the effective date of this MOA, the Kentucky portion of the MPA includes all of Boone, Kenton, and Campbell Counties. The Kentucky portion of the MPA may be expanded in the future, to the extent necessary to encompass the minimum MPA required by the Code of Federal Regulations, without requiring an amendment to this MOA. The MPO is responsible for carrying out the provisions of 23 U.S.C. §134 for the Kentucky portion of the MPA, which is hereinafter referred to as the MPO area.

**Section 2. Performance-Based Transportation Planning & Programming:** The MPO will carry out a performance-based metropolitan transportation planning process for the MPO area in cooperation and consultation with KYTC, TANK, and other agency partners. Performance measures will be tracked and reported in accordance with applicable laws and regulations.

The AGENCIES mutually agree to share available data related to performance measurement and target setting with each other, subject to the policies and procedures of each



agency and any restrictions on the data. Examples of such data include but are not limited to traffic counts, travel times/speeds, socioeconomic data, transit ridership data and infrastructure condition measures. KYTC will normally collect any data required for its state asset management plan for the National Highway System. If KYTC requests the MPO to collect data for the state asset management plan, the data collection process will be determined cooperatively with the MPO.

KYTC will notify the MPO upon the establishment and/or modification of statewide targets for performance measures required by the Code of Federal Regulations. The MPO will plan and program projects that contribute to the achievement of KYTC's statewide targets and/or commit to quantifiable targets. Any quantifiable targets to which the MPO chooses to commit will be approved by the MPO within the timeframe established by the Code of Federal Regulations and reported to KYTC upon approval. If the MPO does not report a quantifiable target for a performance measure to KYTC, it will be understood that the MPO agrees to plan and program projects so that they contribute toward the accomplishment of KYTC's target for that performance measure.

TANK will notify the MPO upon the establishment and/or modification of performance targets for its Transit Asset Management Plan as required by the Code of Federal Regulations. The MPO will establish targets for transit performance measures for the MPO area, taking into consideration the targets established by TANK, if available. If TANK does not report targets for transit performance measures in accordance with the Code of Federal Regulations and Federal Transit Administration guidance, the MPO will assume that TANK agrees with the MPO area targets established by the MPO for those measures.

Performance to be used in tracking progress toward attainment of critical outcomes will be reported in the Metropolitan Transportation Plan.

**Section 3. Participation Plan:** In compliance with all applicable laws and regulations, the MPO will maintain a Participation Plan which outlines a formal public involvement process, including public notice and comment periods. The MPO will follow the Participation Plan as a part of all metropolitan transportation planning initiatives and will update the Participation Plan as needed.

**Section 4. Metropolitan Transportation Plan (MTP):** In cooperation and coordination with KYTC, TANK, and other agency partners, the MPO will develop and maintain a financially reasonable MTP in compliance with all applicable laws and regulations.

The MPO will select an initial list of projects to include in the MTP in consultation with KYTC, TANK, and other agency partners. The initial list of MTP projects will be confirmed, supplemented or revised based on public input received during the public comment period as specified in the MPO's Participation Plan. The MPO will receive and address all comments and include documentation in the final MTP.

KYTC and TANK will provide the MPO with sufficient details, including location, description and cost for projects that they have proposed or endorsed for inclusion in the MTP and may, at their discretion, provide the MPO with cost estimates for projects proposed by the MPO or other agency partners.

At the request of the MPO, KYTC will provide the following information to the MPO:

- Preliminary system-level estimates of costs necessary to adequately operate and maintain the Federal-aid highway system within the MPO area.
- State and federal funds estimated to be available for highway construction and maintenance within the MPO area for each year within the time horizon covered by the MTP.
- Estimated construction cost inflation rate over the time horizon covered by the MTP.

The MPO will prepare necessary amendments and/or administrative modifications to the MTP that will include project location and description, cost estimates, and impact on fiscal constraint, if applicable. Amendments and administrative modifications will follow the procedures outlined in the MPO's Participation Plan.

**Section 5. Transportation Improvement Program (TIP):** In cooperation and coordination with KYTC, TANK, and other agency partners, the MPO will develop, approve, and maintain a TIP. The TIP will be consistent with, and updated at least at the frequency required by, all applicable laws and regulations.

The TIP will explicitly demonstrate fiscal constraint for projects using funds dedicated to the urbanized area(s) served by the MPO. For projects using other state and/or federal funds, fiscal constraint will be determined at the state level and demonstrated in the Statewide TIP.

At the request of the MPO, KYTC will provide cost estimates for projects proposed or endorsed by KYTC. KYTC may, at its discretion, provide cost estimates for projects proposed by other agencies. The MPO will amend or modify the TIP as needed to include new projects and/or changes to existing projects.

**Section 6. Annual Listing of Obligated Projects:** Following the end of each fiscal year, the MPO will develop an Annual Listing of Obligated Projects for the fiscal year in accordance with all applicable laws and regulations. KYTC will provide information to the MPO on funds obligated under 23 U.S.C. for the MPO area. The MPO will obtain information on funds obligated under 49 U.S.C. Chapter 53 from available sources such as transit agencies and will prepare an annual listing of obligated projects. The MPO will provide the annual listing of obligated projects to KYTC in time for KYTC to submit the listing to United States Department of Transportation by the federal deadline.

**Section 7. Unified Planning Work Program:** The MPO will prepare a Unified Planning Work Program (UPWP) based on anticipated funding levels. The MPO will submit a copy to all applicable parties for review and determination of eligibility, in accordance with schedules and document routing requirements established by KYTC. The MPO will coordinate with KYTC, TANK, and other agency partners to determine appropriate work tasks and funding levels to include in the UPWP.

The MPO will coordinate with TANK in the development and submittal of the FTA 5303 application. The MPO will be responsible for providing the local match to FTA 5303 funds unless otherwise negotiated.

**Section 8. Transit Coordination:** The MPO will coordinate with TANK and other transit providers on matters related to public transportation as they pertain to the metropolitan transportation planning process and to ensure that transit-related projects are included in the TIP.

**Section 9. Dispute Resolution:** Any disputes between the AGENCIES not resolved by the terms of this MOA, which cannot be resolved between the staffs of the AGENCIES and/or MPO committee members, shall be referred to the Secretary of the Transportation Cabinet of the Commonwealth of Kentucky or his duly authorized representative, whose decision shall be final. The Federal Highway Administration, Federal Transit Administration and any other relevant agencies will be consulted throughout the dispute resolution process, as needed, and their input will be taken into consideration in attempting to resolve disputes.

**Section 10. Effective Date:** The effective date of this MOA is the date by which all required parties have signed the MOA.

**Section 11. Termination and Modification:** It is the intent of the AGENCIES to carry out the metropolitan transportation planning process on a continuing basis. This MOA

supersedes the Memorandum of Agreement between the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) and the Kentucky Transportation Cabinet (KYTC) that was executed by the Commonwealth of Kentucky Transportation Cabinet Secretary on July 17, 2015, as well as the Memorandum of Agreement between the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) and the Transit Authority of Northern Kentucky (TANK) that was executed by the Transit Authority of Northern Kentucky General Manager on February 23, 2015, and will remain in effect until terminated or replaced by a new MOA. Any agency subject to this MOA may withdraw from the MOA by giving thirty (30) days written notice to all other agencies subject to the MOA. In the event that an agency withdraws from this MOA, the rights and responsibilities of the remaining agencies will remain unchanged with respect to each other until this MOA is amended or replaced.

In the event that this MOA requires modification for any reason, the required modifications may be accomplished through the execution of a letter modification or supplemental agreement between all agencies subject to this agreement.

This MOA may be replaced with a new MOA at any time upon the written consent of all remaining signatory agencies. In the event that this MOA is replaced with a new MOA, this MOA will become null and void when the new MOA goes into effect.

**Section 12. Applicable Laws:** This MOA shall be in accordance with the laws of the United States Department of Transportation, Federal Highway Administration, Federal Transit Administration, the United States of America, and the Commonwealth of Kentucky.

**IN TESTIMONY WHEREOF,** the parties have hereto caused this MOA to be executed upon signature by their proper officers and representatives:

**OHIO-KENTUCKY-INDIANA REGIONAL  
COUNCIL OF GOVERNMENTS**

**CEO/EXECUTIVE DIRECTOR**

**DATE:**

*[Signature]*

**COMMONWEALTH OF KENTUCKY  
TRANSPORTATION CABINET**

**SECRETARY, TRANSPORTATION  
CABINET**

**DATE:**

*5/3/18*

**TRANSIT AUTHORITY OF  
NORTHERN KENTUCKY**

**GENERAL MANAGER**

**DATE:**

*3/12/2018*

**APPROVED AS TO FORM & LEGALITY**

**OFFICE OF LEGAL SERVICES  
TRANSPORTATION CABINET**

**DATE:**

*4/23/18*

## TRANSPORTATION ISSUES

A wide range of issues must be dealt with in transportation planning -- cost and other economic issues, operating authority, levels of service to be provided, and how to allocate limited fiscal resources among competing priorities and objectives.

In addition, transportation planning is just one area of comprehensive functional planning, which also includes land use, housing and environmental planning. All functional plans are integrated into a comprehensive plan designed to promote the general well-being of the entire region.

The important or major urban transportation issues and opportunities facing the OKI region include:

- Addressing the requirements of the Clean Air Act Amendments of 1990 (CAAA).
- Moving towards more performance-based planning process to address the many challenges facing our transportation system today as in response to the federal transportation legislation Fixing America's Surface Transportation (FAST) Act, in regards to improving safety, reducing traffic congestion, improving efficiency in freight movement, increasing intermodal connectivity and protecting the environment.
- Continuing an aggressive congestion management process (CMP).
- Continuing the development of an aggressive Transportation Systems Management (TSM) process and project prioritization to assure efficient use of the existing system.
- Continuing efforts to improve public awareness, including environmental justice requirements, and input to all stages of the transportation planning process.
- Pursuing the recommendations of the *OKI Regional Transportation Plan* to provide a truly multimodal and intermodal transportation system for the region.
- Coordinating OKI's regional transportation planning with statewide transportation planning.
- Refining the travel model to generate high quality project level travel information.
- Delivering a program of projects that improve transportation energy efficiency, livability and economic vitality.

## TRANSPORTATION PLANNING ACTIVITIES

Transportation planning is broadly defined as all of the activities that precede implementation of transportation projects or policies. Specifically, it is the process that leads to decisions on transportation policies and programs. This process can be broad, dealing with questions such as how to raise and allocate transportation revenues, or can be quite specific, such as providing forecasts of traffic volumes that can be used in designing a particular facility. The planning elements involved can be generally grouped and defined as follows:

**Short-Range Planning** – The process whereby roadway, transit, bike and pedestrian projects developed under planning activities become integrated into one coordinated, fundable and implementable program of transportation improvements. The *Transportation Improvement Program* (TIP) serves as the short range element of the region's transportation plan. This document is a programming instrument for projects identified for funding. Short-range planning also includes technical assistance to local units of government and management of the transportation alternatives (TA) program.

**Transportation Planning** – The systematic sequence of activities that continuously evaluate and update the current long range transportation plans. A review of the adopted transportation plan is conducted in order to account for development changes and/or forecasts and policies identified through the surveillance element. Every four years the transportation plans are subjected to a major review and/or reevaluation. A minimum 20-year horizon year is maintained. The congestion management process (CMP) is an integral part of long range planning activities.

**Surveillance** – The maintenance of basic data files essential to the monitoring of transportation assumptions underlying the basic planning process. This activity includes the maintenance of current data files and geographic information systems (GIS) used in the preparation of the short-range and long-range plans for the OKI region as well as development and refinement of the OKI Travel Model for forecasting future demand and service levels.

**Services** – OKI plays a key role in providing planning data and services to member governments, private sectors and the business community. Public outreach efforts are integral to the planning process.

**Air Quality Planning** – The purpose of air quality planning is to ensure that OKI's Regional Transportation Plan and Programs contribute to the region's attainment and maintenance of national air quality standards. The integration of OKI's air quality and transportation planning activities in a single planning process to permit air quality analysis of transportation plan alternatives assures this.